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Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 20 October 2005

Journal des débats (Hansard)

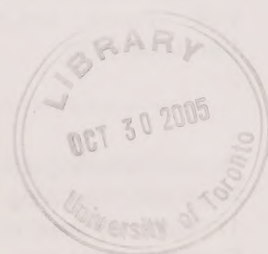
Jeudi 20 octobre 2005

Standing committee on the Legislative Assembly

Draft committee report

Comité permanent de l'Assemblée législative

Rapport préliminaire de comité



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 20 October 2005

Jeudi 20 octobre 2005

The committee met at 1530 in committee room 1.

DRAFT COMMITTEE REPORT

The Vice-Chair (Mr. Mario G. Racco): It is 3:30 and there is only one item on the agenda. There is a draft recommendation, and I wonder if someone is prepared to move it.

Mr. Dave Levac (Brant): So moved.

The Vice-Chair: Any debate? If there's none, I'll take a vote.

Mr. Norman W. Sterling (Lanark–Carleton): I was just asking Doug here a question. Let's say the general government committee gets gummed up with four or five pieces of legislation. Can the minister then designate another area? This is just a matter of information I would want. The way we have it now, the Minister of the Environment is under general government. There are five bills already in front of the general government com-

mittee. Can she stand up and say, "I want it to go to the justice committee"?

The Clerk of the Committee (Mr. Douglas Arnott): To back up from that question, the requirement of the standing orders is that this committee prepare the assignment of ministries and offices to the three policy field committees. The assignment of ministries and offices is not in any way a predictor of where legislation would necessarily go. What the assignment of ministries and offices does do is allow for a member of any one of those policy field committees to then raise a matter under standing order 124 for that particular policy field committee to study related to one of those ministries or offices.

Mr. Sterling: OK.

The Vice-Chair: Further questions? If not, is everyone in favour? It carries. Thank you. Mr. Marchese, the meeting is over.

The committee adjourned at 1532.

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Official Report of Debates (Hansard)

Thursday 17 November 2005

Journal des débats (Hansard)

Jeudi 17 novembre 2005

Standing committee on the Legislative Assembly

Use of technology

Comité permanent de l'Assemblée législative

Utilisation de la technologie

Chair: Bob Delaney
Clerk: Douglas Arnott

Président : Bob Delaney
Greffier : Douglas Arnott



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STANDING COMMITTEE ON
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L'ASSEMBLÉE LÉGISLATIVE

Thursday 17 November 2005

Jeudi 17 novembre 2005

The committee met at 1542 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Bob Delaney): Good afternoon, everybody. This is the standing committee on the Legislative Assembly. We are convened at the request of the Speaker, whose memo to me, as the Chair, requesting a review of technology has prompted this meeting. Pursuant to that, we have a subcommittee report to read into the record.

Mr. Peter Fonseca (Mississauga East): Your subcommittee on committee business met on Monday, October 17, 2005, and Tuesday, November 8, 2005, to consider the committee's schedule of business, and recommends the following:

(1) That the committee meet on Thursday, November 17, 2005, to commence its review of the use of technology in the chamber, pursuant to the referral from the Speaker dated Thursday, October 27, 2005.

(2) That the procedural clerk (research) be directed to provide background information on the use of technology at the Ontario Legislative Assembly and in other jurisdictions.

(3) That the committee meet with the Ombudsman of Ontario on Thursday, November 24, 2005, pursuant to the committee's permanent order of reference, SO 106(f).

The Chair: Motion to adopt? Mr. Hardeman. All in favour? Opposed? Carried.

Discussion?

Mr. Ernie Hardeman (Oxford): I'll be going back to the subcommittee report that was adopted. It's not that I want the report changed, but it seems to me that some of the things we talked about at the subcommittee meeting included technology beyond the chamber. The first recommendation, as the Speaker's letter states, was to look at technology in the chamber. If we're going to proceed further with the information that has been given us, I think we would need to look at more than just technology in the chamber.

The Chair: Is that a motion to broaden the scope of—

Mr. Hardeman: The speed and efficiency of our committee, having approved that prior to any discussion on amendments to it, I would put forward in my motion to approve the report that instead of just in the chamber, we look at the precinct or technology in the building, because some of the things we would be discussing

would be communications within the lounges and other areas in the building.

The Chair: OK. Mr. Hardeman has moved that the scope of the committee's activities be expanded beyond the chamber and include technology in the precinct.

Interjection.

The Chair: Gilles, all you missed was the reading of the subcommittee report.

Discussion? All in favour? Opposed?

Mr. Gilles Bisson (Timmins-James Bay): Are we going to get a chance to get on the record on stuff here?

The Chair: Yes.

Mr. Bisson: OK. Fine. I'll let you guys go, and then—

The Chair: Just to recap for Mr. Bisson and Mrs. Sandals, we have approved the subcommittee report. Mr. Hardeman has moved expanding the scope of the discussion beyond the legislative chamber to include technology in the legislative precinct. The motion is carried.

USE OF TECHNOLOGY

The Chair: We're now open for discussion.

Mr. Bisson: I wonder if somebody could turn on some lights here. The lights are off. It's kind of dark on this end.

The Chair: It may be low-grade technology in the precinct.

Mr. Bisson: There we go. If we're going to talk about technology, the least we can do is—

Interjections.

Mr. Bisson: I thought maybe they were not turned on or something.

Interjections.

Mr. Bisson: I'm beginning to think you're trying to keep the lights off the opposition.

Interjections.

Mr. Bisson: Just so I can read my documents here. Thank you very much.

To be clear, I want to run a couple of things by members to see what kind of reaction we get in regard to the use of technology, not only in the chamber but within the precinct itself. Some of you would know—maybe some of you don't know—that in the House of Commons, outside of question period, when they're basically doing debates, members are allowed to bring their laptops into the Legislature so they can deal with things. While they're sitting there listening to debates, they have

documents that they need in preparation for debate. Everything is there.

On that issue, I'd just like to hear comments from some of the members: how they feel about that and if that's something that would meet with the approval of other members. That would be my first thing, if I could just raise that and see if I can get some kind of reaction. How do you guys feel about that?

The Chair: Shall we go around the table and solicit some opinions?

Mr. Bisson: Yes.

The Chair: OK.

Mr. Mario Sergio (York West): I'm sorry; I missed what you said. At what point in time would they allow them to bring—at what stage?

Mr. Bisson: I'll just repeat: In the House of Commons, outside of question period—in other words, when you're in debate, when members are sitting there listening to other people's debates—MPs are allowed to bring their laptops into the assembly. Basically, they're able to do what they've got to do. When they're debating, they've got to close the laptop. You can't use it to read your speech or read verbatim—nothing like that. It's got to be closed. The point is, as you're sitting there, rather than using a pen and paper and writing a letter to somebody, you can be on your word processor drafting a letter or doing whatever you would normally do when you're working in your office.

Members would also know that a long time ago, members didn't even have offices here. Your office was the desk in the Legislature, and the only tool you had was a pen and a piece of paper. This is kind of the same thing. I'm just wondering where members are with that, if they're supportive of such an idea—something that I, quite frankly, support. I'd like to see what people have to say.

Mr. Hardeman: On a point of order: Just to make sure, did we vote on the subcommittee report and have we totally dealt with it now, and this is the start of the debate of our function here?

The Chair: Yes.

Mr. Hardeman: I don't have a point of order then, Chair.

I guess I'm a little concerned about that topic. I'm a little concerned, because as I was reading some of the information in our agenda, one line came out to me: What we do here to improve the efficiency of the place is supposed to be based on improving democracy and improving the ability of the people to relate to and be involved in the process. I don't think that includes making sure that the members' time is more valuably spent so that instead of going back to the office to do work, they can sit there, pretend to be listening and do their own work. I don't think that's a matter of efficiency. If you're in the House, you're supposed to be there listening to what's going on, not doing other things. Only my wife is good at multi-tasking; I'm not.

I don't think we should create an atmosphere where there are 12 people in the House and the cameras are

there, and 11 people are doing work on their computers and one person is standing there talking about something that no one who's watching the TV has any interest in because they're reading petitions.

1550

Mr. Bisson: Have you paid attention to the debates lately? People are reading papers or reading books. They're doing all kinds of things. It really changes nothing.

Mr. Hardeman: I don't have any problem with banning newspapers. I have a problem with creating the environment that there is no relevance to being in the Legislature, that that's not an important part of our job, not important enough to have your mind on it. I don't think we should be creating that atmosphere within our Legislature.

Mr. Bisson: Luddite. Back at the turn of the century when people threw their sabots into the machines because they wanted to stop technology, they said, "You are sabotaging."

The Chair: Let's come back to the agenda. One of the questions asked of us by the Speaker was to come to a decision, as a committee, so that the practice in the House doesn't evolve from ad hoc decisions by the Speaker. We have the ability now, as members, to formulate a policy to affect activities in the House by members.

Just so that we're all proceeding from the same base of information, Peter Sibenik is here. He did just an excellent review of the use of technology in other Legislatures across Canada, as well as several in the United States. I'm not going to presume that everybody read it to the same depth I did and has the same background in IT that I do. So perhaps before we proceed with this discussion, it would be appropriate for Peter to review the report he put together and set out some of the parameters for the decision the Speaker has asked us to make.

Mr. Peter Sibenik: I believe the document that the Chair was referring to was the fourth document, entitled Survey on the Use of Technology in Legislative Chambers in Other Parliamentary Jurisdictions. There are 12 jurisdictions in all that responded to a survey that we conducted about the use of technology in legislative chambers. Most of these jurisdictions do allow some kind of portable technology, if only it's things like Black-Berries. None would allow cell phones. Some allow notebook computers. Seven of those 12 jurisdictions do allow it.

Mr. Norm Miller (Parry Sound-Muskoka): Which were the jurisdictions?

Mr. Sibenik: It wouldn't be the Senate of Canada. Newfoundland and Labrador would be one. Nova Scotia would be another. Prince Edward Island—

Mr. Miller: All Canadian?

Mr. Sibenik: These are the Canadian ones that I'm going through.

I'm looking at the Australian jurisdictions. New South Wales allows it. The Australian capital/territory does not. The House of Commons at Westminster does not as well,

although there is some reconsideration given to laptops, especially in the committee context there.

Mr. Bisson: We already do that in committee.

Mr. Sibenik: Yes. In the case of notebooks, there are certain restrictions. The restrictions aren't the same across all the jurisdictions. Some will say, "Well, not in question period," or "You've got to wait until orders of the day before you can use them," or the person who's got the floor of the House cannot use the laptop computer at that point in time.

Some allow Internet access, and there are differences in different jurisdictions as to whether there is a wireless connection or whether it's hard-wired into the members' desks. As for the cost, generally it varies. The infrastructure would be provided by the central institution. Sometimes it's the assembly itself or the Parliament. Other times it's a government department. In the case of the actual portable technologies, the members either have to use their so-called allowance or else it's provided centrally by the assembly or the Parliament or a combination of the two.

That's basically a summary of the survey, and the details of course are in the summary.

Mr. Bisson: Just a quick question, Chair: In regard to those jurisdictions that use laptops or notebooks in the assembly itself, are there any comments you have in regard to negative effects that that may have had with the experience?

Mr. Sibenik: The respondents didn't really canvass that particular issue, but the reason for the restrictions was probably as a pre-emptive strike, in the sense that sometimes laptops, like other portable technologies, might cause some difficulties: that they'd be too obtrusive, they might be noisy, whatever the case, or they might interfere with the flow of debate or question and answer, hence those kinds of restrictions. In a sense, indirectly there was that kind of response but not directly so.

The Chair: Mr. Sergio had a comment, then Mr. Miller.

Mr. Sergio: If I had my choice, I wouldn't use anything in the House whatsoever, a BlackBerry or any other device. I think it takes away from the workings of the House, reserved as a special time when we sit in that particular chair.

I haven't gone through all the material with respect to using anything else at any time other than in question period. But I'll tell you, even if somebody is speaking on the other side, and next to me or behind, there's a BlackBerry rumbling on the desk, it bothers me. I can see the gendarmes down there, and the kids and everybody else looking at it, and they're wondering and stuff. So it's bothersome.

If I had my choice, I wouldn't do it. I think the workings of the House should be restricted to working in the House. It takes away from the aura that is reserved for members to address the people of Ontario when we're sitting.

How bad it is to allow it maybe outside of question period, I really don't know, but I would still have some

reservations in using anything at all, BlackBerries or laptops, connected or unconnected. I don't know; I'm sensitive to the workings of the House and I would like to see that reserved to the workings of the House.

The thing is, we can leave at any time. We can go outside to make a phone call. We can always pop in and out. I don't see why we have to infringe on the time we spend in the House. I don't know how the public would feel about it. How was it before we used TVs in the House? We were managing, right? Not so theatrical maybe, but I think the workings of the House were going on and maybe in a better fashion.

Mr. Bisson: There were far better speeches before television.

Mr. Sergio: There you go. It has some kind of influence.

The last thing: I wouldn't want to see a colleague calling somebody on his BlackBerry, "Oh, we need an answer; please get back to me as quickly as possible," or whatever. That's my comment. I'd be willing to hear what other members have to say.

The Chair: I'll hear comments from Mr. Miller and then Mr. Marchese. I've used some of the notes that Peter has given us. I'd like to try and sum up, and perhaps we can come to some consensus on the use of laptops or tablets in the chamber. I might add, as I'm doing this, that I'm doing it on my tablet in front of me.

Mr. Miller: My feeling is that we should recognize the practice, the fact that probably 90% of the people are using BlackBerries in the legislative chamber, so I think we should recognize the trend and have rules that permit it, seeing it is what is currently occurring. My feeling in terms of actual laptop computers is that I wouldn't want to see them in the chamber. Maybe in time, as things evolve, that's the way it would go, but at this time my feeling would be that they shouldn't be in the chamber itself.

1600

Yesterday when we were speaking, you had some proposals—I assume you're going to bring those up at some point in the committee—in terms of wireless access in the rooms beside the chamber, and I would certainly be in favour of that.

Mr. Rosario Marchese (Trinity-Spadina): I don't know what I missed, but I'm more or less supporting what I've heard.

I find the reading of newspapers in the chamber a bit offensive, actually. I suspect that anyone from the public who comes in and sees that would find it equally offensive. We should actually ban the reading of newspapers in the Legislative Assembly. If people want to read clippings, that's perfectly acceptable and respectful in terms of not disrespecting the people on the other side or the audience that might be coming to view the proceedings.

Personally, I would ask that we ban the use of newspapers in the chamber, but I find that the BlackBerry is the least intrusive. It's a little gadget, and as long as people are not just putting it in front of them as they would a newspaper, I think it's practical. It doesn't offend as much, it's more or less invisible or can be made

invisible, it doesn't show disrespect, except if you're doing it disrespectfully, and so that for me is acceptable. But there's just no way that I think computers are appropriate in the chamber.

The other discussion that I'm assuming you've proposed—how do we make computers accessible in other areas of this place?—I think is very useful. I'm sure that Gilles would like to speak to that. I can support that very easily, obviously.

The Chair: OK. I'm going to get some comments from Caroline, Tim, back to Ernie, and then Gilles one more time. We'll try to focus this and make a decision on technology in the chamber, if that's OK—and then Liz.

Ms. Caroline Di Cocco (Sarnia-Lambton): I feel like it's déjà vu. I used to sit on the Legislative Assembly committee when I was in opposition, and one of the first discussions we had, I think in 2000, had to do with different types of technology in the Legislature.

The Legislature is a debating chamber. It's a place where members traditionally are to debate issues, to listen to one another. More and more, we intrude on that. We intrude on it in different ways: the newspapers, the fact that people really don't listen to one another when they're in there, all kinds of side conversations that go on, and so on and so forth. Irrespective of that, I guess the question is—I'm one of the people who don't, but I would say that probably 80%, 90% of the members, from my observation, use BlackBerries, because they're non-intrusive ways of getting information.

I was in Wales. I think Doug and Peter were there as well. When we went to look at their Legislature, each desk had these computer screens. People would get e-mail there. I found it quite offensive, to tell you the truth. I didn't see how that helps to do the job. Having access to computers, maybe, where we go out to the members' lounges or whatever, to be able to access quickly our staff or things like that—certainly the ministers have all kinds of staff sitting there. I don't see how having another piece of something on our desks is going to make the debating chamber a better place to work in.

I'm one of those people for whom the less intrusive we can keep the work we do in the chamber, the better it is. I think there are a lot of things we can do in bringing the chamber into the 21st century, but it's not more about technology than it is about maybe changing the environment, how we behave in the chamber.

My preference would be maybe keeping up to date now and saying, "Everyone's using these BlackBerries anyway. They're non-intrusive." Keeping in step with what's already happening is one thing, but I don't think that to add more technology on people's desks in the chamber is conducive to making it a better place to work as a legislator.

Access outside of the Legislature—I certainly didn't like what I saw in Wales. I didn't see any evidence that it made it easier for people to actually get the job done. Some training I've had with other Legislatures, in Wisconsin, as a matter of fact, suggests that the multitasking is not such a good thing because you're not present; you're not there to listen to what people are saying.

That's when mistakes are made because you've got too much stuff going on at the same time, and we mentally can't do that.

That's my opinion when it comes to bringing technology into the chamber. I would prefer less intrusion, not more intrusion, into the Legislature, and to keep it in the tradition that a Legislature is a debating chamber, to debate and discuss issues back and forth. To me, if we put too much of the technology in there we're going to be distracted worse than we are now, and I just don't think that is going to make it a better place.

Mr. Marchese: So we all agree.

The Chair: Let's finish with the people who would like to throw in their two cents' worth. If you can scope it a little bit, so much the better.

Mr. Tim Peterson (Mississauga South): This is technology. This is a computer. The thing we're talking about is not technology; we're only talking about the size of the technology. You're saying that small technology is acceptable and larger technology isn't. I obviously disagree, because laptops have gotten so small and thin, and maybe if we want to look at it that way, we should look at the size of the laptop. The structure of the House is unfortunately not random and open debate; it's all structured and precast. I don't know how bringing a laptop in would hurt debate any more than these do, because I don't think these do.

I like Rosario's idea that we ban newspapers, because I think it looks offensive for somebody to be sitting there with a great big piece of something, but these laptops are now down to, what, two pounds and an inch thick, and one and half times the size of an 8½-inch piece of paper.

I find my most difficult task as an MPP is keeping on top of all the correspondence and detail I get. I need more productive time. I can use electronic devices in the House. I need it because of the quantum of it. Everybody can get to us by e-mail. I like that extra productive time in the House. I do it with a BlackBerry. I would totally support laptops of small dimensions, not ones that fold up where you have the computer screen folded up, but ones that lie flat on your desk that you could do interactive e-mail with.

I also support complete Wi-Fi, that we wire this building so that we can have access from any part of the building with computers. I would even go one step farther and suggest that members—I'm parliamentary assistant to Jim Bradley and my office is over at the corner of Wellesley and Bay. It's a real pain in the butt for me to have to go over there to get to my computer. We should look at having computer cubicles or desks where we could, as members—some guys have offices in here, but there should be banks, in my opinion, where we can access a desk with a bit of privacy and make it much more efficient to be operating out of this House rather than being all over the place.

I'm probably the only dissenting voice here.

1610

The Chair: Mr. Hardeman, you have another chance.

Mr. Hardeman: I would agree with Rosario on the banning of newspapers, except that I'm not sure it falls

within the scope of what we're discussing. That has always been there. We're now looking at technology in the precinct. I'm not sure that includes newspapers, although I totally agree that any of us—I would think we have enough sense that we would come in, and every one of us gets the clippings in the morning, and read the clippings instead of the newspaper, because I don't think there's anything more distracting than the person next to you rolling out the Aylmer Express, the largest newspaper in Ontario, and holding it out in front of both people on either side, because it goes almost that far. Seeing that the story doesn't warrant that much intrusion on other people, we should all do a better job of confining it.

I mentioned this earlier, and I have found it here now in the notes that were given to us. There is a paragraph here, and this must be the committee Ms. Di Cocco was a member of: "The committee is of the view that technology should not be an end unto itself, but rather should, as the committee's mandate from the House indicates, 'improve democracy and enhance accountability.'" Everything we're talking about is trying to improve the productivity of the individuals as opposed to democracy for the people.

As to bringing a computer in so that I can do my office work in the House because I was forced to have a duty day, there is nothing that's going to help my citizens connect to me better. If we're going to do it to enhance democracy and use the argument that that's what the laptops will do, then we have to connect them to the Net so that my constituents can actually get to me, and just before the vote can send me a message and tell me how to vote.

That would improve democracy, but I don't think that's what we're talking about doing. We all agree that as members of the Legislature, we were sent here to do the people's business, to go back home and hear what they have to say, and to do it through correspondence. But when you get in there, you're on your own. It's your turn to express what you think is the view of your constituents, and in turn, to vote the way you think your constituents want you to, to represent them.

I think we're putting too much focus on the fact that we are there just disseminating information. The buck stops there. That's the talk. I don't know why as a non-member of the cabinet I would ever get into the Legislature and need more information than I have available; you shouldn't. You should be prepared to come there and express what it is you're debating and express your view. People being able to get hold of you or your staff being able to tell you, "Oh, don't say that," or "Don't do that," doesn't bode well. That isn't the person or the body that's supposed to be telling us what to do. It's supposed to be your decision. Communication with others should be cut off when you get in there. You now represent the people you represent in the best way you know how. I don't think that's a time to disseminate information. I'm opposed to any type of link to the technology Web.

Mr. Marchese: Including the BlackBerry?

Mr. Hardeman: No, I'm going to stop there. The reason I say not including the BlackBerry is because I'm not sure where you draw the line. I think I can draw it between a laptop and a BlackBerry, but if you say, "Well, they're both technology, they're both the same," so is my watch; it's technology too. Can I not wear it? What about the cell phone? Can you wear it, or do we have to get rid of it on the way in? You have to draw the line somewhere on what is practical now, what is being used now.

Incidentally—I speak with some authority—I don't have a computer in my office, laptop or otherwise. I don't use any computer myself except my BlackBerry, and it's the only one I know how to use. I don't think it's necessary for me or for people—my staff are close enough to me in the office that they can deliver the paper to me and run the computer for me. I don't use it at all. Incidentally, I get most of my work done for my constituents. I think the—

The Chair: Thank you. Just so that nobody can accuse you of being a Luddite, I note that you are not using a fountain pen, but a ballpoint. Mr. Bisson and Ms. Sandals—Mr. Fonseca, you haven't thrown anything in. Do you want to have a word on this? Then I'd like to do a little wrap-up and see if we can focus some of the discussion to a decision. So I'm going to do Gilles, Liz and then you. Will that be OK? OK.

Mr. Bisson: I know when I'm on the losing side of an argument. Along with Mr. Peterson, I can feel the train coming. But I want to say a couple of things because I think we're mixing things up.

First of all, the argument that somehow or other this reference was about enhancing democracy and somehow corresponding through a laptop by way of writing a letter in word processors doesn't help democracy, listen, when people first started coming to this place, all they had were pen and paper. They were using the technology of their day to communicate with their constituents.

When people came into this Legislature, and part of their job was to communicate with their constituents, they would walk in with their mail, as I did when I first got elected in 1990. There were no laptops. Back then, you could carry laptops on your back in the packsack, it was that big. You used to walk into the Legislature with your signing binders and you would read your mail. You would write the response, you would sign it, somebody would put it in an envelope and it would go. I was communicating with my constituents back then. The difference today is, I don't do that any more. All of my correspondence—as I would argue, most members'—is done by way of computer. We use word processors to be able to communicate with our constituents.

To Mr. Peterson's point: I don't write handwritten letters any more. I stopped doing that a long time ago. I use some software called Maximizer—actually, I'm on Maximizer 9 now—which is contact management software that has every case file I've ever dealt with in my constituency since 1990. If you called about the cat on the back fence, I have a file on it, and I use that in order to communicate with my constituents. How you work

might be different, but you have to have some respect for how some of us work. I'm a totally paperless office. We use computers for absolutely everything. There is not a piece of paper. Everything is scanned. We have fax to e-mail. Everything is electronic. I just make the argument, don't argue with me that somehow or other using a laptop in the chamber is not going to add to democracy, because that's the only way I communicate. Anyway, I know when I'm losing the argument.

However, I do want to say a couple of things very quickly. One thing that I think we need to do for sure is this whole Wi-Fi issue. It is unfair to a person like Mr. Peterson, or anybody else who is a parliamentary assistant—I know, I lived it—or a cabinet minister, when you don't have an office in this building. Most people have laptops. At least if they have a laptop they can plug into a network somewhere; they're able to deal with their e-mail in the lobby and do whatever it is they've got to do. If you're a PA or a minister and you walk into this place, you have nowhere, unless you run into somebody's office and physically plug in. So I would support that we need Wi-Fi technology across this building—that goes without saying—including the lobbies.

The second thing is, as far as technology in the chamber itself, one of the things we may want to look at—and it would be interesting to hear back from Peter on this—is that if people are uncomfortable with my communicating with my constituent by way of my laptop, is there technology that allows us to get Hansard, order papers and all of that stuff electronically? Where we're at now is that any time you want something, if it's not in the Hansard—if I'm looking for something that was said in a speech five weeks ago, I don't know what I did five weeks ago. I have to go to legislative research or I've got to go to the computer to do a search. If we had technology that at the very least allows us to access Hansard, order papers and legislation so that we can do our jobs in the Legislature by way of, "I want to look up Bill 163," and you can punch it up and it comes up—I don't know if such technology exists—that would be useful for the purpose of doing our jobs in the Legislature.

Wi-fi technology: You Luddites one day will come into the 21st and 22nd centuries. I'll have some other points after.

The Chair: Don't be so pessimistic on Wi-Fi. Ms Sandals.

Mrs. Liz Sandals (Guelph-Wellington): I agree that if it's possible, we should do the Wi-Fi because it would be very helpful to have some access here, as opposed to having to run back down the street.

I wonder if in fact we should say that it's OK to use these, and in saying that it's actually OK to use these and admitting what almost all of us do anyway, we might arrange to get the desks outfitted with some sort of a foam pad to set them on, and then, as they all vibrate, they might be less disruptive.

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Mr. Bisson: That's if you don't have a belt.

Mrs. Sandals: Exactly. It depends on what I'm wearing, whether or not I want it sitting on my belt. Some days I do; some days I don't. It depends on the wardrobe.

Mr. Bisson: I apologize. I really do apologize. That was a very sexist thing for me to say. Thank you.

Interjection.

Mrs. Sandals: Well, then, we have to fight that out with Peter, but that's another issue.

Interjections.

Mrs. Sandals: At any rate, it might be useful to have some sort of foam pads available that you could sit them on so that they don't make such a racket when they start vibrating.

In terms of the laptop issue, I actually agree. I don't think we're at the point where we want to use them. I think part of the reason is the appearance that it gives to the public. The reason is that if I look at the Hansard laptop, if that was on TV, it's very obvious that you're sitting, doing something as opposed to what Bob's doing, which isn't very obvious. At this point, when not everybody is on to that technology, I think it's probably premature to go there. I suspect that sooner or later we will get around to a laptop. I don't think we're ready for that, but we should admit that we all do this.

The Chair: OK. Mr. Fonseca.

Mr. Fonseca: Being a new member and coming into this Legislature two years ago, the BlackBerry is all I know. As soon as we came in, BlackBerries were in our hands, and it would seem very difficult to do my job today without the BlackBerry. I don't know how long it took the evolutionary process to get to BlackBerries. It must have been quite quick; it seemed like it just happened. I don't know if it had to be approved before it was.

Mr. Peterson: Ernie would like to answer a technological question.

Mr. Hardeman: I think the BlackBerries came in when the Liberal government came in, because the funding form changed. That's when I got them. I had been here nine years before then, but I'd never had one, but I got it because now it's not part of your office budget; it's paid by the Leg. Assembly.

Mr. Fonseca: I'm just thinking that even at that time, when I was working in the private sector, very few people, two years ago, had a BlackBerry. Actually, I should have bought BlackBerry stock—RIM, a great Ontario company—because the stock has gone up 400% if we had bought in two years ago. We missed that one.

In regard to moving beyond the BlackBerry and bringing other technological devices into the Legislature like the laptop, I really feel that we will evolve to that. I don't know how obtrusive it is on the desk. Where I, as a member, would feel they would be obtrusive would be people punching away at the keys and all that noise, you know, if everybody's punching away at their keys. But it seems that here, just working on the Hansard, I never really hear it. I don't know how many keys you're punching away at there—

Interjection: One.

Mr. Fonseca: Yes. So right there, it doesn't seem like a problem.

I have not had a chance to go to the Ottawa Parliament to see how they use theirs and how they put them down etc. I don't know how long they've been doing that, but if it's not a problem there, why would we think it's a problem here? Why are we different than what is happening in Ottawa? I don't see that as an issue. I would hope that we would evolve to the point where we can get a lot of our work done.

As Mr. Peterson said, a lot of our work does come in electronically and needs to be answered electronically. I can say that it is very difficult to work with these, to send e-mails. First, you can't read documents. I don't wear glasses now, but I'm not far away from having to wear glasses because these really kill your eyes. They're very small. It's very difficult.

Mr. Miller: Just for clarification, Ottawa doesn't allow laptops in the main House of Parliament.

The Chair: Yes, they do.

Mr. Sibenik: That's correct. A little bit more than a year ago they were rewired, the entire Commons chamber itself, so that it allows—they have access to the network from members' desks, including the Internet as well, hard-wired.

Mr. Fonseca: Maybe somebody can recall some outrage by the citizens around those laptops, but I never read anything about it. It's not like it hit the headlines and people were screaming bloody murder, "Get rid of those laptops; they're not doing their job." People probably think they're doing a better job. I have to say that I think it's evolutionary. We should move to laptops. We should look at best practices and what is least obtrusive to those watching on TV and to the members in the chamber as they are trying to deliver their speeches and debate on various pieces of legislation.

The Chair: Everybody has had one, and in many cases two, cracks at this. I'd like to propose the following, and let's see if this can assist us in moving forward: In looking at the comments, Mr. Sergio's opinion was to keep computers out of—

Mr. Bisson: Hey, you're using technology there.

The Chair: I am using technology, and I freely admit it.

Mr. Sergio's comments were to keep computers out of the chamber. Mr. Miller said BlackBerries are OK. Mr. Marchese, among other things, said in addition to technology, let's also ban newspapers. Ms. Di Cocco said no to computers. Mr. Peterson feels that laptops and tablets are OK; look for an access point. Mr. Hardeman concurred on banning newspapers. If there's one consensus we seem to be drifting toward, it's a ban on newspapers. We may be technologically savvy, but we're consigning paper to the wastepaper basket. Mr. Bisson is looking at Wi-Fi access and talking about the evolution of software. Ms. Sandals is affirming the use of BlackBerries and suggesting we set a policy around it. Mr. Fonseca feels that we're going to evolve in some manner toward the use of computers in the chamber. Am I encapsulating this fairly accurately?

Let's see if we can break it down into a couple of decisions. A decision would be a yes or a no on, "Should we ban computers altogether?" If we choose not to ban them altogether, then it would be, "Under what circumstances should we permit computers/tablets?" At this point, we've not discussed the use of BlackBerries, which everybody seems to feel are already ubiquitous. The policy, such as it is, has evolved from ad hoc rulings by the Speaker. It would probably be appropriate for this committee to set that policy by the members, rather than to continue to rely on ad hoc rulings by the Speaker. In encapsulating, is that an acceptable thing to request a motion on?

Mr. Bisson: You've got to be careful about how you word the motion. That's where we're going to have all the problems.

Mr. Peterson: You've got a tablet, and I've got a BlackBerry. I think people would agree with BlackBerries and tablets, but not computers with screens that flip up and are obtrusive.

Mr. Bisson: Is that a tablet?

The Chair: That's a tablet.

Mr. Bisson: Can you actually run software on that?

The Chair: I am.

Mr. Bisson: No. I'm saying, can you actually call up let's say your e-mail, as it's in tablet format?

The Chair: Not only can I call it up, but at home, where I have my wireless access point, I seldom use the tablet on either an AC line or wired. I use it always—

Mr. Bisson: But my question is, when you have it in tablet form, are you able to access software, navigate software and navigate the Internet?

The Chair: The question was, am I able to access software, navigate the software and navigate the Internet? Not only am I able to access it, but in plain vanilla word, using this pen, I can input into Word, which will translate it into text. I'll show you later.

Mr. Bisson: I move that we move for those to be allowed in the chamber. That's non-intrusive. That is not intrusive.

Mr. Bisson: On a point of order: I agree with you, Chair, that you want to put some structure to the decision that we have to make. My nervousness is when you said we were going to vote straight up, straight down, on yes or no for computers. I think it's problematic, because there are certain forms of computer technology that we're already using that are not obstructive.

To try to move this thing ahead, I think we agree on a number of things. Blackberries should be allowed in the Legislature, provided we don't do obstructive things, as Rosario and others have said. I would argue that what you're doing is not obstructive to me. It's a piece of paper. That's the way I see it. You're not typing anything. But laptops I can concede on.

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The Chair: I'm trying to lead us toward a motion on which we can make a decision. Caroline, Rosario, Ernie.

Ms. Di Cocco: I think we have to be cautious about this. I say this maybe because I've aged a lot in the last

two years. I don't know. This discussion is certainly very different from the one we had about four years ago in the Legislature, and so it should be. I just want us to please keep in mind what we are doing, what the role is and what the debating chamber is all about. It's a different place than our offices. There's a different role that we're supposed to be playing there.

I'm being a purist about this, because as we evolve in our Legislature, we're forgetting more and more what the intent and what the role of that Legislature is about. I just say with some caution, as we move forward in bringing more and more technology into the Legislature—and maybe it will evolve that way—that I just fear for the underlying reason of what the Legislature is about. It is not our offices; it's not the same as our offices. What we're trying to do by bringing more and more technology there is make it like a mini-office. I just caution us with that. If there is a motion to be made, I think it has to clarify for the Speaker the use of these BlackBerryes, because technically they're illegal now. That's what this should be about.

Mr. Marchese: I'm just going to make a point, and then make a suggestion. In terms of debating skills in the Legislature, it's not going to change, whether we have small technology, big technology, newspaper or clippings. Whatever happens in terms of the debate in the Legislature is irrelevant in terms of what we're doing or the means by which we do it. It's not going to make me respectful of the person debating whether I have some technology, a large amount of technology or less technology. That's not the issue. People can debate, and they may not be listening, whether they're reading or not reading or playing with their computers.

It's up to the individual across the way to either listen to you or not, or for you to listen to me or not, based on whether you're interested or not, or whether you have to respond and so on. For the government members, it's worse. Most New Democrats are always debating because we have to; we don't have to worry about technology, because we're always busy. But for some of you, 18 would be sitting there, thinking, "What am I going to do?" because you may or may not be listening to us. It's not going to make you more respectful.

Mrs. Sandals: There are days when I tune you out.

Mr. Marchese: There you go, and I understand.

My argument had to do with the impression we give to the general public. That's about all; it's more the semblance of being respectful than actually being respectful, because if we're quiet, it doesn't mean that we're respectful of the member speaking. I have to admit that Tim made a good point, Gilles made a good point and then Liz made a good point by way of saying that if we're not going to move to something else, we should be looking at how we accommodate the BlackBerry in the most unobtrusive of ways. I thought that was a good suggestion.

But the other suggestion that might make sense is your tablet, which is a bit bigger than I would like, but it's quite possible that the other members we haven't in-

quired of might think it's a good idea. So I wanted to propose to you, rather than moving a motion—we may or may not need to—we could go back to our caucuses respectively and say, "Look, do you think having a tablet in the Legislature is something you can live with?" And then maybe we can come back, debate it or move it, and move it as a motion or not, but then we'd have a better sense from our caucuses. By the way, I don't like computers in the old form. I don't like them at all. I don't want to impose my view on others. But a tablet could be less intrusive than something else, and it might accommodate a whole lot of people in terms of them doing their work. So let's go back to our caucuses, put it on the agenda, and then come back.

The Chair: So your proposal is that we take the issue of computers and tablets in the chamber, and that we table that—

Mr. Marchese: Not computers; the tablets.

The Chair: All right. So you're suggesting now—I'm trying to get this down to something specific.

Mr. Marchese: Two things: One is that we review what Liz Sandals suggested, and that is, could the carpenters in this place or the engineers find the least obtrusive way of accommodating the BlackBerry so that it sits somewhere? I don't know how they might do it, but they might have some suggestions.

Interjections.

Mr. Marchese: Possibly. Oh, yes, it's here. Was it there, or here?

But they might devise a way to do it that's not obtrusive.

The second one is, do they think a tablet is acceptable? Can they live with it? Then we'll come back.

The Chair: Is the consensus here that for the purposes of discussion, notebooks are out, but tablets with a stylus like this are OK for the purposes of this decision?

Mr. Marchese: Let's ask our caucuses.

The Chair: OK. Mr. Hardeman, you had a point to make.

Mr. Hardeman: I think it's very important. I'm somewhat changing sides. I agree that the tablet the Chair is using is no more intrusive than me trying to work my BlackBerry, but that, to me, doesn't make any difference. That means we've got to do a better job of working the BlackBerry appropriately.

I totally agree with Ms. Di Cocco: The purpose of being in the Legislature is not the same as the purpose of being in our office. I point to the number of jurisdictions that were mentioned. Westminster was mentioned in England. They don't have computers. They don't even have desks for their members. They just have public desks, because the only reason they're there is for the debate. Then they go to their office and do their work. I don't know why we would want to say that we should find a way to make my desk in the Legislature my office.

The one other problem that I have is, if we're going to do that and we've decided that that's the important place for members to do their business, I want to know if I get two desks, because in order for me to properly run that

computer, I have to bring my assistant in. Why not? I mean, she's a person, and why should I, as a member of the Legislature, not be accommodated the same way as everyone else, that I am incapable of doing it myself but I have a right to have it done? So why would I not get a second seat?

I think more important than technology is the issue of what it is we're supposed to be doing in the Legislature. I think that's really what we need to decide, and I would suggest, if we're going to move forward at all, that we should deal with, as to BlackBerries, Palm Pilots, electronic organizers, watches, where you draw the line of what's allowed and what isn't.

Mr. Marchese: But I made a suggestion. Do you want me to move it as a motion? Is that useful, or what?

Mr. Bisson: I can feel a motion coming.

The Chair: I can feel a motion coming too.

By the way, just as a note, your suggestion on the assistant isn't as far-fetched as it sounds. In the Michigan state Legislature, I believe the state legislators, in addition to voting electronically, have their assistants physically present in the room.

Mr. Hardeman: In Washington state, every member's desk has a telephone that rings out loud if somebody wants to call him. But they only meet once every three years.

Mr. Marchese: Do you need a motion, or is it acceptable to the caucuses?

The Chair: I'm looking for a motion here.

Mr. Marchese: I move that we respectively take this issue to the caucus to deal with two matters, and maybe others. The two that we talked about that there's possibly some agreement on: one, the BlackBerry, that the caucuses speak to the issue of a BlackBerry and find a way to accommodate the BlackBerry on a desk so that it can be used in the least obtrusive way; and secondly, to inquire with our caucuses about whether or not having a tablet, the least intrusive tablet—and that's a difficult one, as there is so much technology.

Mr. Peterson: As a computer with a screen that doesn't pop up.

Mr. Bisson: No keyboard. A non-keyboard type.

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Ms. Di Cocco: The word "tablet" is very Biblical. It has the same—

Mr. Marchese: Whatever. Is Tim's suggestion useful?

Mrs. Sandals: The issue is that you don't want things that—

Mr. Marchese: That flip over, that flip up—no flip-up. A tablet without a flip-up.

Interjection: It's called a notepad.

Mr. Marchese: So more or less those two.

The Chair: OK. I understand.

Mr. Marchese has moved that the committee formulate a policy on BlackBerries—

Mr. Marchese: That we go back to our caucuses to canvass them on two matters: (1) the BlackBerry and how we might accommodate it on the desk and,

(2) whether or not the caucuses agree that we should have a—

Mr. Bisson: Notepad.

Mr. Marchese: A notepad?

The Chair: A tablet.

Mr. Marchese: Let's say "tablet," because I think we know what we mean by it. OK?

Mr. Hardeman: Mr. Chairman—

The Chair: Mr. Hardeman, are you speaking to the motion? We do have a motion on the floor now.

Interjection: Do we need a seconder?

The Chair: We don't need a seconder. We're in questions and comments. Are you speaking to the motion?

Mr. Hardeman: It's a question and comments to the motion and the appropriateness of the motion. I guess my concern is in the motion itself. The reason we're having this debate is because the Speaker wanted this committee to make recommendations to him as to what should be done. If we support this motion, it effectively says that the government side of the House should decide what we're going to do about technology in the Legislature, because whatever recommendation comes back from caucuses, the government side is always going to carry the day. So whatever they decide, that's what is going to happen.

Interjections.

Mr. Hardeman: That's what it sounds like. When the members of the Liberal caucus go back to their caucus and come back and say, "We don't—

Interjections.

The Chair: OK, let's do this one at a time.

Interjections.

Mr. Hardeman: Yes, but when it comes—

The Chair: Order.

Mr. Hardeman: I believe I have the mike, Mr. Chair.

The Chair: Order.

Mr. Hardeman, you still have the floor.

Mr. Hardeman: Thank you.

The problem is that when we come back here with three recommendations, unless mine is the same as the governing party's, the number of votes at this committee will always carry the position of the Liberal caucus. So what we're really saying as a committee is, we don't want to make recommendations; we want the government to decide it for us. I think we should be making recommendations to the caucuses.

Interjections.

Mr. Sergio: OK. Read the motion.

Mr. Marchese: Bob, can I also add that whenever a decision is made, it requires consensus from the three caucuses? Is that a good idea?

Mr. Bisson: That's fair.

Ms. Di Cocco: I think that's a reasonable way to look at this—

Mr. Marchese: Can I add that we have to have consensus?

Ms. Di Cocco: —that we ask our caucus. This is déjà vu, because that's exactly what happened four years ago. Everybody did go back to their caucuses because it's

important enough that it affects everybody as well. We're certainly divided—

Mr. Marchese: Yes. I can't speak for caucus.

Ms. Di Cocco: —in the sense that there's a discussion. The member made the motion. It's not like the motion came from the government side.

Mr. Marchese: But let's not spend so much time on it.

Ms. Di Cocco: I don't want to go there either. I personally feel it's a good approach, because it settles on accommodating the BlackBerry and the aspect of going to the caucus and discussing with our caucuses, with our colleagues, what their views are. I don't know what their views are.

Mr. Marchese: But are people willing to add—

The Chair: One at a time.

Mr. Sergio: Mr. Chairman, we'll never finish if we go back and forth all the time. We might as well—

The Chair: Speaking to the motion, Mr. Sergio.

Mr. Sergio: I have no problem sending both to the three caucuses. My problem is that, according to the motion of Mr. Marchese, he suggests that we recommend the use of the BlackBerry already. I have a problem with that. I think both should go to caucuses and say, "With respect to BlackBerries and whatever you want to call it, go—"

Mr. Bisson: That's what he's saying.

Mr. Sergio: No.

Mr. Bisson: Yes.

Mr. Sergio: If you read his motion, it says, "recommending the use of the BlackBerry and to look at the other possibilities." So if we're going there with a positive recommendation from this committee on the BlackBerries—

Mr. Bisson: It's not a recommendation. You're going to sound out your caucus. You're going to hear what your caucus has—

Mr. Sergio: Rosario, can you read your motion?

The Chair: May I suggest something?

Mr. Sergio: Why don't we go to caucuses for both?

Interjections.

The Chair: Order. A five-minute recess to enable Mr. Marchese to get that motion in writing so that—

Mr. Marchese: We don't want to stay here all day.

The Chair: Nobody wants to stay here all day. If we're going to vote on this motion, may I request it in writing.

Mr. Marchese: Do we really need it—

Mr. Bisson: That's why we have the clerk. It's an easy motion.

Mr. Marchese: Mario raises a good concern. We don't need the five members. The idea is to go back to the caucus to get their—

Mr. Bisson: Direction.

Mr. Marchese: —not approval, necessarily, but to canvass them on the use of BlackBerries and how they could be accommodated, if they agree. Do they agree to have a BlackBerry? And if so, how to accommodate it, and do they agree to have a tablet in the Legislature?

The Chair: May the Chair make the following suggestion?

Interjections.

Mr. Bisson: He wants to get rid of them.

Mr. Marchese: No, I thought Liz's suggestion was useful in terms of accommodating, if people think it's a good idea, because everybody is using them now, right?

Interjections.

The Chair: Order. May the Chair make this suggestion to you? I'd like to move from this topic and, with the indulgence of the committee, come back on the motion that I'm hoping you're going to write down for us, and talk about the issue of some of the technology that we've discussed in the east and the west lobby, the dining room, the committee rooms and other venues.

Can I suggest that you get that motion down on paper, and with the indulgence of the committee, do I have unanimous consent to come back to this motion to vote on it when we've got it down on paper? OK.

Mr. Hardeman: My question, again, is on priority or on process. I think the discussion on technology anywhere else is going to hinge on some of the decisions that are going to be made about what we're going to do in the Legislature. It's kind of hard for me to sit here and debate against putting computers or allowing laptops in the east and west lobby when we're going to come back or could come back with recommendations that we're going to allow them at every desk in the Legislature. I think it's kind of the cart before the horse as to how we can properly debate expansion.

The Chair: Thank you. Mr. Bisson.

Mr. Bisson: Well, they're very separate issues. If you use the logic that you, Ms. Di Cocco, have used, you argue that the use of these technologies in the House takes away from the decorum of the House. We're not talking about the House. We're talking about giving Wi-Fi technology to the building, so that people like Mr. Peterson and others, who don't have offices in this building, can walk in, sit down at the park bench or sit in the dining room, or go into the members' lobby and access the Internet by Wi-Fi. It has nothing to do with the chamber. I think that's a good idea, and I would so move.

The Chair: The Chair rules that in fact they are two separate issues.

Mr. Bisson: That's right. And I so move.

The Chair: Could you perhaps phrase your motion in terms of something—in other words, you're moving that we do allow Wi-Fi access—

Mr. Bisson: To the building.

The Chair: To the entire building?

Mr. Bisson: It excludes the chamber, obviously, because we haven't dealt with the chamber.

The Chair: That's not what I hear. Now, we've set aside the chamber, but other than the chamber—

Mr. Bisson: The building.

The Chair: The building. OK.

Mr. Bisson: That means the east and west lobby, that means the bathrooms, that means the dining room, that means my office; that means all of it.

The Chair: So you've moved that, separate and apart from the chamber, Wi-Fi access be enabled throughout the legislative building.

Ms. Di Cocco: Point of order.

Interjections.

Mr. Bisson: It's part of technology these days. Never mind the cost. It's how we do our jobs. They have it at the airport. They've got it at the coffee shop, for God's sake. You Luddites; I'm telling you.

Mr. Hardeman: On a point of order, Mr. Chair: On the appropriateness of the resolution, my question is, are there any restrictions on the access today? This committee is not empowered to instruct the installation, only the rules, whether they're allowed or not allowed. The installation would have to go to the Board of Internal Economy.

Our purpose here is to discuss what needs to be changed in the rules and regulations and the standing orders to deal with technology in the precinct, so I'm not sure that saying we want Internet around the building—we're not discussing the chamber at the present time. I'm not sure that it requires a change of standing orders to do that. So then it's a matter for the Board of Internal Economy, not a matter for this committee.

1650

The Chair: Thank you.

A motion from Mr. Bisson would be out of order because it is Mr. Marchese who is the committee's representative.

Mr. Bisson: I'm writing it out as we speak.

The Chair: While the Chair accepts your point, such motions should be moved by Mr. Marchese. Before we deal with that, Mr. Marchese has written down his previous motion, and it reads as follows:

"That members of the committee take the issue of the use of BlackBerries and tablet computers back to their respective caucus and report the results of the discussions back to this committee."

Discussion, if any? All those in favour? Opposed? Carried.

Mr. Bisson: We have another motion, Mr. Chair.

The Chair: Mr. Marchese.

Mr. Marchese: Monsieur Marchese moves that Wi-Fi technology be made available throughout the Legislative Building.

Interjection.

Mr. Marchese: That would suggest that you could use it in any little corner of the building rather than be specific. Does that worry people?

Interjection.

Mr. Marchese: "Legislative Building."

Mr. Bisson: You can say "precinct" if you want, "legislative precinct."

Mr. Marchese: "In the legislative precinct?"

The Chair: It's your motion.

Mr. Hardeman: "Legislative Building."

Mr. Marchese: The building.

Mr. Hardeman: No, the precinct includes the other buildings.

Interjections.

Mr. Marchese: Well, you're not going to have it outside, are you?

Interjections.

The Chair: Just for clarification, in making that motion, does "throughout the precinct" include the legislative chamber?

Mr. Marchese: I would think—you would argue yes.

The Chair: For clarity, may I suggest that you put that in?

Mr. Marchese: So the Legislative Building and the—

The Chair: "Including the legislative chamber." Just for clarity.

Mr. Marchese: In the precinct—

Mr. Bisson: It's a moot point if it's in the chamber. You haven't got the technology to use it, so what—

The Chair: OK. May I suggest that that go into the motion?

Mr. Marchese: Sure.

The Chair: OK. Could you please read the motion one more time?

Mr. Marchese: I move that Wi-Fi technology be made available throughout the precinct, as I said earlier, and that would include the Legislative Assembly—or the legislative—

Mr. Bisson: Chamber.

Mr. Marchese: Chamber, building, whatever you—

The Chair: Thank you.

Mr. Marchese has moved that Wi-Fi access be made available throughout the legislative precinct, which includes the legislative chamber.

Discussion? Ms. Di Cocco. Ms. Sandals afterwards.

Ms. Di Cocco: I guess the only question I have is, does that then not predetermine what we're going back to our caucuses for, first of all? And second, particularly for parliamentary assistants who aren't in the building, access to their offices and access to information, when you say "legislative precinct," could we word it in such a way that we're saying to make the technology available in the members' lounges or in some of the—because there are people who don't even have a place. They were saying cubicles of some sort, to accommodate the members to get access to their offices or to the e-mails they need or whatever it is that we want to do? And add to that, if we could, that maybe they should look at accommodating members, period, within the area, here or at the Whitney Block, instead of having parliamentary assistants. Could we add that extra piece to it: instead of having them in other parts of the ministries, having offices here between the—or is that not in our mandate?

The Chair: I'm not sure I understand your request.

Ms. Di Cocco: Anything that I'm saying. OK. All right. The motion is to accommodate technology within the precinct, period. That's the motion.

The Chair: Provide Wi-Fi access, 802.11g access.

Ms. Di Cocco: I misunderstood the motion. I was speaking on something that I misunderstood. I do apologize for taking up the time.

Mrs. Sandals: I guess this is procedural, because I'm the visitor and I don't understand what we have the

authority to do. Is this something where we should be asking somebody to investigate the cost of installing it at various—I just don't have a clue what the cost of this is that we're asking for. I don't know what it would cost to provide access. And do we want access throughout the building for the entire world, or is the issue access for members?

The Chair: Mrs. Sandals points out that the motion itself is rather global and asks, is this everywhere? Mr. Marchese, although it's your motion, you're pointing out that it's only a couple of places, but that's not the way the motion reads.

Mr. Marchese: You're quite right. I'm just hoping that it would be on the understanding that—we're talking about having access outside of the legislative chamber. We were thinking in the east and west lobbies, the library, the committee meetings.

The Chair: Do you wish to amend the motion so as to narrow its scope, so that when the committee makes a recommendation—

Mr. Marchese: I guess. I thought you had talked to a number of people and we had a better understanding of what we're talking about, but yes, OK.

The Chair: If the Chair may, the scope of what we had discussed informally prior to the meeting was to provide 802.11g wireless—in other words Wi-Fi access—in the following locations: the east and west lobbies, all committee rooms, the legislative dining room, the library and, at the request or the acceptance of each caucus, the caucus rooms themselves.

Mr. Marchese: Caucus rooms—good idea. Exactly.

The Chair: Period.

Mr. Marchese: At the moment, yes.

Mr. Miller: Depending on the response you get in the feedback from the caucuses, if in fact the feedback from the caucuses is that the tablets would be fine in the chamber, then we would also at that point—

The Chair: In fact, these are two separate issues. We have one issue to address the use of technology in the chamber. This motion restricts Wi-Fi access to certain areas outside the chamber so that the two are independent, as I understand it.

Mr. Marchese: Yes, Bob, but we could refer that to caucus too, if people think that's useful to do. I don't think we need to, but if people feel strongly, then we could refer that as well.

The Chair: Do you wish to amend the motion?

Mr. Marchese: I'm just getting a quick sense without debate. Let's refer that to caucus as well, otherwise we're going to be debating forever.

Mr. Sergio: Notwithstanding all of that, I have no problem sending whatever direction to our caucus, but following the direction that we got from the Speaker, all he says is one thing: "I'm writing to request that the standing committee on the Legislative Assembly undertake a review of the use of technology in the chamber." That does not speak of anything else.

Mr. Marchese: The Speaker makes a recommendation—

Mr. Sergio: Hold on a second. I said, notwithstanding what we have spoken about—motions, whatever—there is only one address, one direction from the Speaker of the House. Shall we limit ourselves strictly to that or do we want to go beyond—

Mr. Marchese: Yes, we do what we want.

Mr. Sergio: —and advise the Speaker as well that we want to look beyond the chamber?

Mr. Bisson: First of all, the Legislative Assembly committee, this committee, can decide what it wants to deal with. That's within the purview of the rules. So if we decide to expand it, it's up to us. We've been given an issue to look at on behalf of the Speaker which looks at the chamber, but we can go beyond that.

As far as the Wi-Fi motion, I just want people to understand—and I think most of us do understand—that it would be very hard to wire up this building so that the signal doesn't go into the chamber, doesn't splash over certain parts of the building, because that technology doesn't work in squares. You know what I'm saying? It's technology; it's a radio wave. The reason I was saying we should put Wi-Fi across the building, when I meant all the building, is even though the signal goes into the chamber—there are all kinds of signals in that chamber now, if you know what I mean. The point is, if you don't have the technology to use it, you wouldn't be able to access it. Putting Wi-Fi across the building doesn't do anything to hurt people's concern when it comes to technology in the chamber, because if you don't have the technology to use the signal, it's a moot point.

Let's move a motion.

1700

Mr. Miller: I have a question to do with the cost of Wi-Fi technology, and also whether we need to get approval, or whether in that motion it has to say "subject to approval from the Board of Internal Economy," in terms of the cost of the whole thing—just some idea. You're very familiar with the technology, Chair. It would be my thought that it's not, relatively, an expensive process to go through, is it, to set up this technology in the building?

Mr. Bisson: It's only a recommendation.

The Chair: The scope of the discussion here—Peter is taking some of the discussion. Perhaps Mr. Marchese would consider an amended version of his motion. If so, perhaps we could vote on it. In answer to your question, 802.11 wireless is very economical to install.

Mr. Miller: It's basically a transmitter that transmits—

The Chair: For example, in this room, if you put one on the ceiling, it's an access point that's under \$200 and wiring itself is about a dollar a foot.

Mr. Miller: I say we vote on that matter, then.

Interjections.

The Chair: Mr. Sibenik is just taking these suggestions and turning them into an amended version of Mr. Marchese's motion, which, if it's acceptable to him, perhaps we can read.

Mr. Marchese, does that encapsulate what you had intended in your original motion?

Mr. Marchese: Based on what you said, yes.

The Chair: Would you read it?

Mr. Marchese: That Wi-Fi technology be made available in the east and west lobbies, the legislative dining room, the library, the committee rooms and the caucus rooms.

Mr. Bisson: You're excluding all the offices?

Mr. Marchese: Yes.

The Chair: Discussion?

Mr. Marchese: Without too much debate, we could either refer this—

Interjections.

The Chair: Mr. Marchese has moved that—

Mr. Marchese: We can either vote for this, if you're ready, or if you think we need to refer it to our caucuses, we could do that. Are you ready to vote on this?

Mr. Bisson: No.

Mr. Marchese: OK, then I'll move it as a motion and we'll deal with it now.

The Chair: Mr. Marchese has made the motion. Discussion?

Mr. Bisson: Very quickly, because I don't want to make this longer. Poor Mr. Peterson won't be able to come to anybody's office and use his laptop, under that motion. That's why I said "the building." I don't know why we're getting to name the rooms of the building. Poor Mr. Peterson, if he goes to visit Mrs. Sandals, will not be able to use his laptop. Make it the building.

Interjections.

The Chair: Comments will please be directed to the Chair.

Mr. Marchese: Can I add that we refer this to our caucuses as well for discussion, and bring this back?

The Chair: We have a motion on the floor. Let's get the motion dealt with. Are we ready for the vote?

Those in favour? Those opposed? I declare the motion carried.

Mr. Marchese: I would like to refer this for the caucuses to discuss and bring back their discussion.

Mr. Bisson: This doesn't need to be referred back to caucus.

Mr. Marchese: Yes, because some of you have concerns: Maybe it should be somewhere else in the building and in the offices. I'm OK with this.

Mr. Hardeman: Mr. Chairman, on a point of order: Far be it for me to pick on the senior member of our committee, but when you've passed a motion, you have given direction of the committee; you don't ask for further input in order to help you make the decision. It's either a motion passed or it's not a motion passed.

The Chair: Rosie, he's right. You've got to accept it. You just made a decision here.

Is there anything else that we had to deal with? Are there any further matters to deal with here? Mr. Miller, you had a comment.

Mr. Miller: No. I'll talk to you afterwards.

The Chair: Motion to adjourn?

Mr. Marchese: So moved.

The Chair: Mr. Marchese has moved adjournment. All those in favour? Opposed? Carried.

The committee adjourned at 1706.

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**Standing committee on
the Legislative Assembly**

Ombudsman Ontario

**Comité permanent de
l'Assemblée législative**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 24 November 2005

Jeudi 24 novembre 2005

The committee met at 1700 in committee room 1, following a closed session.

OMBUDSMAN ONTARIO

The Chair (Mr. Bob Delaney): Good afternoon, everyone. Welcome to the standing committee on the Legislative Assembly. My name is Bob Delaney, and I'm the chair of the committee.

It's our pleasure as a committee to welcome, for our first meeting with him, the Ontario Ombudsman, Mr. André Marin, and his staff. Mr. Marin, bienvenue. This is our initial opportunity to get together with you to discuss your office and some of the work that you're doing, and for us to pose some questions to you during the approximately one hour that we'll have this afternoon.

Without further ado, I'm sure that you have an opening statement for us. Please proceed.

Mr. André Marin: Thank you very much, Mr. Chair. I'm indeed honoured to make my first appearance here before the standing committee on the Legislative Assembly. To my right is Ms. Barb Finlay, who is the director of operations in our office, and to my left is Wendy Ray, who is senior counsel and who very courageously and competently assumed the position of temporary Ombudsman between Mr. Lewis and myself.

It is a pleasure for me to appear today in response to your invitation to discuss my vision for the office as well as the work we are doing. My first contact with members of this Parliament was almost a year ago, when I was interviewed for the position of Ombudsman of Ontario after a full competitive process. Two of the members of the interview panel are also members of the committee, although they are not present today.

I took office as the sixth Ombudsman of Ontario as it embarked on its 30th year of existence this April 1. I succeeded Clare Lewis, who rightfully claimed credit for providing five years of stability and continuity to the position. In his last appearance before this committee, Mr. Lewis, however, wisely recognized that having relaid the foundation of the office, it was time to bring it to a new level.

The function of the Ombudsman is described in the Ombudsman Act, in rather terse language, as recommendatory in nature. Whenever I've investigated an issue, if I conclude that a decision, recommendation, act or omission appears to be contrary to law, unreasonable,

unjust, oppressive, improperly discriminatory or just plain wrong, I can make a recommendation.

At first blush, the authority of the office over 500 government ministries, agencies, tribunals and commissions appears to be very broad, and indeed it is. We process over 23,000 complaints per year. We also exercise a much more fundamental role. The Ombudsman is Joe Q. Public's gateway to the avenue of power. He is the ordinary citizen's friend in righting wrongs outside the legislative or judicial branches of the state. In our cherished democratic society, the wealthy can always avail themselves of the courts, which are already overburdened, to fix their problems with the state in an adversarial setting. The less wealthy can become impoverished by risking this route, and the poor are left out altogether. The Ombudsman is there to fill the void by providing free, independent, impartial oversight of governmental action or inaction.

Thirty years ago, in the 1975 speech from the throne, the intention of the government to create an Ombudsman's office was captured in the following terms: "As a safeguard against the growing complexity of government and its relationship with the individual citizen, the government will establish the office of the provincial Ombudsman to ensure the protection of our citizens against arbitrary judgments and practices." The Ombudsman is therefore integral to the provincial civil rights protection apparatus even though he is outside the governmental net.

As an independent officer of the Legislature, the Ombudsman is also an indispensable tool for parliamentarians who strive for good government and administrative efficiency. In 1970, the Supreme Court of Alberta said, "As an ultimate objective, the Ombudsman can bring to the Legislature his observations on the misworking of administrative legislation. He can also focus the light of publicity on his concerns as to injustices and needed change."

To use the words of our first-ever Ombudsman, Arthur Maloney, parliamentarians are "my fellow Ombudsmen," in that we both have, as part of our responsibility, to help citizens who have complaints about governmental administration. I am vested, however, with special powers of investigation, including entering government offices, examining files, conducting hearings, subpoenaing witnesses and taking evidence under oath. Following investigation, I can recommend and report. To use, again,

the words of the late Arthur Maloney, "I exercise those powers as trustee for (parliamentarians) and for the people. As my office evolves and as the powers conferred upon me are exercised by my office we build up a know-how and an expertise which we share with our fellow Ombudsmen."

There are many ways in which the Ombudsman safeguards individual rights and enhances the democratic process in Ontario by investigating, recommending and reporting. One can investigate, recommend and report by shuttle diplomacy. This is a less threatening, less thorough, more cursory way of looking into an issue, which may be quite appropriate, even desirable, for some matters. The vast majority of our cases follow this route. For example, a citizen may feel aggrieved if denied a provincial licence he believes he is entitled to receive. A sensible undertaking may be to approach the responsible official in the provincial government to obtain an explanation. The citizen may not qualify to receive his licence, or the functionary may have overlooked facts. Either way, the investigation will be low-key and uninvolved and have as much or more chance of succeeding quickly than a more intrusive approach.

There are cases, however, where the low-key diplomatic approach will be unsuccessful, cases where the administration appears to be immovable and intransigent; where the issue is hotly contested; where the facts are in dispute; where there appears to be a strong *prima facie* case of systemic flaws causing great injustice; where a solution appears distant and elusive. For these cases, there is no substitute for a formal field investigation.

This is the area, since my appointment, where we have brought the greatest reforms in how we do business. By reallocating internal resources, we have been able to create the first ever field investigation unit, called the special Ombudsman response team, or SORT. I am pleased to see that SORT has been a very successful tool at bringing closure to difficult systemic issues that had been impossible to resolve otherwise.

I plan to conduct at least six SORT investigations a years. Since my appointment we have conducted three and are completing our fourth.

The first SORT report was titled *Between a Rock and a Hard Place*. It was the result of an investigation into complaints that parents were being forced to place their children with severe disabilities in the custody of children's aid societies to obtain necessary care. Following the publication of our report, the Ministry of Children and Youth Services adopted all our recommendations and started the lengthy process of returning special-needs children to their parents if no protection issues existed.

In the second SORT report, titled *From Hope to Despair*, we found that the Ministry of Health and Long-Term Care's refusal to fund the drug Cystagon for treatment of Batten's disease to be unreasonable and unfair. We made several recommendations, including one which called on the ministry to change its interpretation of the Ontario Drug Benefit Act to ensure that it was not

unreasonably strict and causing injustices. Again, the ministry complied and accepted all our recommendations.

In the third and most recent SORT investigation, we reported, in *The Right to be Impatient*, that the Ministry of Health and Long-Term Care had failed to properly administer newborn screening in Ontario by screening for only two diseases and not updating its screening process in 27 years. There are 130,000 births in Ontario per year. For years, our province has been guilty by omission in the death and disability of 50 babies a year by maintaining a newborn testing regime which is worse than any of those found in developed countries. As we sensed that the ministry was receptive to our conclusions and amenable to moving forward quickly, we refrained from making specific recommendations. Since then, the government has pledged to increase the screening to 27 diseases, to be completed before the end of 2006. The Premier also committed to leaving the list open to new additions.

Finally, we are currently investigating the Municipal Property Assessment Corp. for the way in which it conducts property assessments in Ontario. Specifically, we are investigating the transparency of the assessment process and how the corporation deals with cases where citizens successfully challenge the assessed value of property. We announced the case as we believed we had received a large number of complaints, 75 of them, dealing with these issues, which we believed were compelling enough. Within weeks of announcing our investigation, we received a further 2,700 similar complaints from across Ontario. I intend to report my findings and recommendations early in the new year.

The introduction of this type of field investigations in the Office of the Ombudsman is one of the first initiatives I undertook after taking over the post on April 1 of this year. Between a Rock and a Hard Place, From Hope to Despair, and *The Right to be Impatient* speak loudly of the unique function served by this approach in helping citizens with their problems and in demonstrating our value.

1710

I want to conclude my opening by thanking all of you, the parliamentarians, for the hard work you undertake every day on behalf of your constituents. In the last 8 months, I have met with dozens of MPPs, and I was struck by the concern each and every one has for the welfare of fellow citizens, a concern that is not always in evidence when you are looking in from the outside. In fulfilling your important jobs as parliamentarians, I am committed to supporting your function by reporting to you my findings and recommendations and in ensuring that we have a complementary role in achieving greater justice in society and, to use the words of the Alberta Supreme Court, in ensuring good government and administrative efficiency.

Thank you for your attention. I'd be pleased to answer your questions.

The Chair: Thank you very much. I have a list of questions: Mr. Ruprecht, followed by Mr. McMeekin.

Mr. Tony Ruprecht (Davenport): Thank you very much for your well-thought-out presentation. I was particularly interested in your comment on MPAC. You indicated that there were 75 complaints at the beginning, which then mushroomed to 270—

Mr. Marin: Some 2,700.

Mr. Ruprecht: Oh, 2,700. The reason I have interest in this is because this number seems to be very significant. I'm wondering, when you get these requests, is it for you to check out individual properties? Is it for you to check out the process by which these properties were assessed? Secondly, I'm just wondering in terms of the jurisdiction of your office. Did you give any thought at all to whether you had been appropriately informed or whether this was part of your jurisdiction, without second thought?

Mr. Marin: Thank you for the question. We looked through the caseload of complaints historically about MPAC, we analyzed the 75 that came in, we kept tabs on the others that were also flowing in, and we isolated two systemic issues. Obviously, citizens were complaining to us about their individual assessments, but there are two ways right now that citizens can challenge their assessment: One is by making a request for reconsideration by MPAC, and the second is by a formal appeal in front of the tribunal that's set up to do that job. We refrained from looking at individual issues. Rather, we isolated two systemic issues which we thought were very compelling from an Ombudsman point of view.

The first one was whether citizens who receive an appraised value of their property are sufficiently informed of the criteria used to arrive at that value. It's all good for a process to be there to allow citizens to challenge the value of their home, but if they don't have the disclosure of how the numbers are there, how are you expecting citizens to be armed with the information to challenge it? We thought that on the face of it, that was a very compelling issue that was worth study.

The second issue: When a citizen takes it upon himself or herself to challenge the value of their home, to go through the process before the court or a request for reconsideration, and through one of those means has the property value reduced—many people are complaining that MPAC fails to honour the lower amount the next year. It gives the impression to citizens that MPAC's position is, "We'll cut you some slack this year, because we'll get you next year." Essentially, the complaint is that the lowered amount is ignored for subsequent years. MPAC goes back to the higher amount, prior to the appeal or challenge, and then tacks on the new percentage for that year.

Mr. Ruprecht: In all cases?

Mr. Marin: In many cases that come to our attention. That's why we're investigating. Whether it's in all cases—we hope to bring you back an answer in the new year. So those are the two systemic issues which we thought were very compelling to look at, because they come up very frequently in complaints we get.

The second part of your question about the jurisdiction: Initially, MPAC raised some preliminary issues

about whether or not we had jurisdiction, because they considered themselves an independent corporation. But through discussions between counsel, we sorted it out, and MPAC has since agreed that we have full jurisdiction and is co-operating with us.

Mr. Ted McMeekin (Ancaster—Dundas—Flamborough—Aldershot): I want to join my colleague in expressing my appreciation for you and your capable office support folk for coming out and sharing here. I'll say off the top that I'm a bit surprised that a third thing on MPAC wasn't the process itself. I wouldn't mind chatting with you about that at some point.

My understanding is that the first thing that happened when it went from provincial to municipal—downloading, in a sense—was that about 27% of the staff were cut. That, coupled with the computer program removing the human face, that interface—that may say something about your office too. I don't know. That's the question I want to get at.

As I listened to you, Mr. Ombudsman, I was taken by the scope. I appreciate your comments about us all being ombudsmen, by the way. I share that perspective. Personally, I'd like to take a case-to-cause approach, where, when you solve a problem, the benefits accrue to more than just the person who indicated the concern. I suspect, from the bit I know about your office and you, sir, that you're likely in that camp.

As you spoke, you talked about taking action to right a wrong. From Bobby Kennedy's funeral, a plain and simple man "who saw wrong and tried to right it; saw war and tried to stop it," where it's wrong, where it's discriminatory, or arbitrary judgments, misworking of legislation, acts in dispute—we see a bit of that around here from time to time—where solutions are elusive.

Given the depth and breadth of your obvious concern, which I share, how in heaven's name do you make decisions about where you're going to focus your energy? It seems to me that it's such a broad task that one would need to be next to the angels to achieve it. I throw that out to you. I'd appreciate a little bit of information about, of all these concerns that come in, how you and your regiment make decisions about where you're going to focus limited resources.

Mr. Marin: It's a very good question. We deal with 23,000 complaints a year, and except for the six that we intend to turn into field investigations, like the one about MPAC, the rest are done using diplomacy and communication with the ministries involved. The office is called the Ombudsman's office, and I'm probably going to be the only one from the office speaking today. I am backed up by a team of professionals who have been there for 30 years—not all of them, but there's a vast resource that's behind me. When there's an issue that comes up with a ministry and agency, whether it's the Ontario Human Rights Commission or another ministry, I turn to my staff, and they're able to produce a rich resource of information to allow me to make an educated decision.

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To answer more precisely how I make the decisions where to put our resources, we put our resources where

we believe that we're able to have the biggest impact for the citizens of Ontario, where we can pack the biggest punch, make the biggest difference. MPAC's a good example: four million property owners in Ontario. If we're able to contribute something on the two issues that I've identified, you have four million people who've benefited from that investigation. Newborn screening: 130,000 births a year. Those are the kinds of issues where we will be putting more resources.

Where we're putting less resources will be issues which are strictly individual: Someone applies for a bear licence or a driver's licence, and they don't get it, those kinds of things. We won't send in the cavalry on those cases. Those cases will be resolved informally, diplomatically, low-level, using the soft approach. We keep our resources for the cases which are more evolved, more systemic and will affect the most people.

Mr. McMeekin: I appreciate that. That's very much a case-to-cause approach, if I could characterize it that way.

Mr. Marin: Yes.

Mr. McMeekin: By way of supplemental, you talked about the SORT approach, which would give focus to the very thing you've just described. Are there areas that are falling between the cracks because of the resourcing in your office? In an ideal world, doing the job that you and your great team want to do, how many SORT investigations a year would you see? Are you limiting yourself to six? Could you be doing more?

Mr. Marin: Absolutely, we could be doing a lot more. We understand that no one who operates an office such as ours has unlimited resources. We operate with very tight resources. Just to give an example, our office was created in 1975 with an \$8.1-million budget. We operate with a \$9-million budget 30 years later. Since then, the rate of inflation has increased 270%. Since then, government has increased tenfold in expenditures, from \$8 billion to \$80 billion.

I'm not appearing before this committee this afternoon or before the Board of Internal Economy any time soon to ask for more money. We are trying to live within our means. There is a point where we may be making that request. Right now, I've set the modest objective of six SORT investigations a year, and we'll take it from there. It's obviously very tight, but that's why we're going through a process now of rationalizing and reallocating resources to systemic issues.

Mr. McMeekin: Thank you very much. I appreciate that information and that scope.

The Chair: Mr. Zimmer, followed by Ms. Jeffrey and Mr. Peterson.

Mr. David Zimmer (Willowdale): Congratulations on the appointment and congratulations on the office and the work that you're doing.

My question has a bit of a philosophical nature. Our government is premised or organized around the idea of an executive and the Legislature and the judiciary. As we know, there is this concept of judicial deference, both to the executive and to the Legislature. One of the struggles

over the years—indeed, over the centuries—has been the correct balance between the judiciary and the executive and the Legislature and to what degree the judiciary should defer to the executive and the Legislature. By analogy, some people have argued that there is something you could describe as Ombudsman deference to the Legislature and the executive. It particularly plays out in those areas where the executive and/or the Legislature take a policy decision or legislative decision, and typically it involves a spending component or a decision to provide a level of service or not provide a level of service. In not getting a level of service, some citizens are included and some citizens are left out. In effect, it's an exercise, in many ways, in triage: limited resources and how you distribute them.

I am interested in your thoughts on the proper balance in those areas where it may be a question of the right level of deference to be shown, a sort of triage decision. I think you have the sense of my question.

Mr. Marin: Absolutely, and I welcome the opportunity of answering it.

I indeed believe very strongly that it is up to the Legislature to define broad public policy matters. I'll give you an example: the MPAC issue. We receive a lot of complaints that you shouldn't be using fair market value to assess property, that there shouldn't be a corporation there. Those kinds of complaints really go to the essence of the property valuation in Ontario. That's why we're not going to do it. That's your job. You may want to give it to me, though, but I see that as your job. It's a job of parliamentarians to define broad public policy issues. My job, once you've made that decision, is to determine whether it's being administered in a way which is fair, just, non-oppressive, etc., to use the terminology in the act. So I couldn't agree more with what you're saying, and I'm certainly very deferential of that.

The act, though, is very broad and it does allow for intervention at all different levels. But as an officer of the Legislature, when I investigate a matter, I go to the field, collect the information and report back to provide you, as parliamentarian, the resources and the information you require to make an informed decision.

The first case we did is interesting, because this represents the first case regarding special-needs children. These children were being given to the children's aid society because the government had decided years ago to stop entering into special-needs agreements with these families. That was an issue which was one of policy of the government, but policy on a smaller scale. That's why we intervened. The government accepted our recommendation.

On broad public policy issues, such as the formula used for property taxation, that review is within the realm of Parliament and not of the Ombudsman.

Mr. Zimmer: Just to carry on the question, in some areas—in health care spending, as you know, with the developments of science and new treatments and so forth and so on, and drug treatments and so on—again, governments are faced with the problem of limited resources but

a whole world out there of treatment regimes that can be provided. Decisions necessarily have to be made about which treatment regimes to fund, which treatment regimes not to fund. In your view, how does the Ombudsman's office structure its relationship vis-à-vis the Legislature and the executive in sorting out who makes those decisions or when you feel the Legislature has crossed the line or whether the Legislature might think that's—to use your expression—a broad policy matter and courts and Ombudspersons ought to defer to that, or when it is not in that realm?

Mr. Marin: A good illustration is the second case we did dealing with a boy who suffered from Batten's disease. We produced a report called *From Hope to Despair*. The Ministry of Health and Long-Term Care's position at the time this boy was asking for his medication to be funded was, "Well, that's a federal matter. We won't intervene." Then the whole argument became, "It's untested medicine. It's opening up that door." This was accepted virtually unchallenged, and he turned to our office.

When we conducted an investigation into this, we found it had nothing to do with the federal government. The boy who needed this medication had the medication. The federal government approved the medication. He had it; he had it for his own use. So we're not talking about the mass-marketing of medicine, etc. He had it for his own use, first of all. The sole issue is one of funding, and the funding is provincial.

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There was a smokescreen advanced by the ministry which was impenetrable, but our investigation demonstrated that it had nothing to do with the federal government. The issue of cost is not a real issue either, because the Ministry of Health was prepared to pay \$20,000 a year to fund medication that wasn't helping, but was not prepared to help him out at \$15,000 for medication that his doctors were saying was miraculous. That's where an Ombudsman can help.

We agree philosophically that broad public policy issues ought to be the responsibility of the Legislature. However, sometimes only an investigation can determine if it's really that big, broad, public policy issue or a narrow issue. This investigation demonstrated that it was really a very narrow issue and not the bigger public policy issue.

Mr. Zimmer: Thank you very much, and good luck.

Mrs. Linda Jeffrey (Brampton Centre): Thank you for being here today. We appreciate your appearance.

As the former chair of Leg. Assembly, I had Mr. Lewis come before us on a couple of occasions. My question, when we were getting the pre-briefing, wasn't covered, and you mentioned it earlier. It was about the financial viability of the Ombudsman's office. I know that Mr. Lewis did a number of reorganizations and changes within the Ombudsman's office to try to maximize the amount of investigative work that he was able to do, but he didn't get the additional funds that he requested in the past.

I understand you want to live within your means, but in order to do effective representation as an Ombudsman, I understand you've made some changes. Could you elaborate for us what kind of changes you've made, and why you made them, to live within your means up to this point? It sounds like six investigations are—you're halfway through that list now, and you likely have lots more requests for your intervention than you can meet.

Mr. Marin: Absolutely. My philosophy is, if I turn to this Legislature and say I want more money, the obvious questions will be: What have you done to maximize efficiencies; what have you done to find savings internally? We're at that stage now. We may be knocking on your door in the future. We're not prepared to do that right now, because we are in the process of maximizing those efficiencies and minimizing our expenses.

How have we done that? Several ways: One, we are collapsing levels within our office to merge different functions. For example, right now if you call our office, you have an intake that answers the phone, and then it goes to another level, so we have a whole unit just answering the phone. If you call our office after the end of January, you will get an intake where people are able to assist you and conduct preliminary inquiries right there and then. So we've merged the intake to allow for an intake which is more meaningful, as opposed to just clerical, taking a message and passing it on the line.

The second thing is that we are moving our offices from 125 Queen's Park to another location. Essentially, this was inevitable, because our building belongs to the University of Toronto and they informed us that they wanted the building back. That is a saving that is being forced upon us, but nonetheless, our lease saving will amount to about \$50,000 a year.

The third thing is that we had 15 persons within our office taking solely correctional complaints. I had a really hard look at the kinds of cases that were coming in, and they were not the broad, systemic kind of cases within corrections that I would have expected. The cases were much more individual and minor in nature: a prisoner losing his glasses, a prisoner complaining of brown lettuce, a prisoner complaining that the linens were a day late, a prisoner complaining about the smoking policy in the prison. These were the kinds of cases that were occupying 15 people in our office.

I do want to get involved in correctional cases. I want to get involved in systemic, big cases. We were finding that correctional services were very happy to see us involved in the small stuff because we were taking a lot of pressure off them, but I think they should be looking after finding the glasses, getting more green lettuce and this kind of thing. The Ombudsman, in my view, should be involved in big-picture, serious issues. We've basically reallocated those personnel to the rest of the office to be able to find the bodies that are necessary to conduct SORT investigations like MPAC and the newborn testing. We've been able to streamline our investigations in that respect.

Finally, the other big change we've made is that we had what I like to call Toronto offices in the regions.

They were not regional offices; they were Toronto offices in the regions. We had five offices in this province where we were leasing space in malls and in buildings, and people were working in those areas behind locked doors doing cases from Toronto. It gave the illusion that somehow we were receptive to walk-ins, but we were not; we were bundling cases and sending them to malls in different areas across the province. The one exception was in Sault Ste. Marie, where we had two employees taking walk-ins. Out of our 23,000 cases a year, this office was registering five walk-ins a month. So we've discontinued all those leases, and that has saved us between \$200,000 and \$250,000.

Those are savings we were able to find internally. It's a big challenge for us; it's like scraping every nickel and every dime. But we're managing for now, and I'm not in a position to come here, at least before the end of January, and ask you for more funds to conduct field investigations, because we're still cleaning up shop.

Mrs. Jeffrey: Can I ask one more question, a short one?

The Chair: Sure.

Mrs. Jeffrey: Mr. Lewis worked very hard near the end of his mandate to try and make the Ombudsman's office more available to Joe Public, as you call them. He squeezed money out to find a way. Do you have an intention as to how you will make the Ombudsman's office more available? You've talked about how you've made changes in the office. Do you have a sense that you need to publicize who the Ombudsman is and how to get hold of him, to make it more accessible to the average person?

Mr. Marin: Absolutely. I think it's a very valid point. We've done unprecedented outreach since April 1. As well, we've set up a special 1-800 line for SORT investigations so that when people hear the Ombudsman's doing MPAC as a field investigation, for example, there's a specific number that people can phone. Our office is more accessible than ever to the citizens of Ontario, and we're doing very aggressive marketing and outreach.

The Chair: Mr. Peterson, followed by Mr. Hardeman.

Mr. Tim Peterson (Mississauga South): I have this romantic view of the Ombudsman. It's probably a little bit like Roy McMurtry, who founded it, and that was that you are the saviour from the tyranny of the majority and the tyranny of the bureaucracy. It seems to me that there's a substantial role for us as government to have an outlet like that.

When I served on the finance committee and we toured across the province, we ran into a lot of people who gave up on the welfare system because the bureaucracy to access it was so unfriendly. They just went into poverty; they went on to the streets; they lived in communes below the poverty line. I thought that we had failed as a government when we allowed the tyranny of the bureaucracy to let that happen.

I then have been confronted with a group of people, especially on the MPAC side, who are really ticked off

with the phenomenal inflation of their waterfront properties in Muskoka and are seeking advocacy on that. I laughed at them and said, "If you really expect me to represent people who are multi-millionaires as not being properly served"—but if it is a systematic thing, then they should be served.

I support you, especially as you go forth. If you've had to cut your office back in 30 years by two thirds—that's what you're saying the inflation has been—what mandates are you giving up on? I appreciate your analysis of efficiencies of \$50,000 and \$20,000 and whatnot, that you're doing that right, and I'm sure you're hard-working, efficient people doing that. But that's a pittance, in my opinion, compared to the social benefit you can help us with as better governors if we allow you to connect the dots, with systems where there's a systematic failure of the bureaucracy or a tyranny of the majority.

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Mr. Marin: Mr. Chair, I set about to do six SORT investigations a year, which is very, very modest. Basically, you'd see it like a pile of 23,000 complaints, and I kind of pick six. We don't pick them randomly; we pick them very carefully to meet the criteria I've talked about. An office better resourced would be able to do 12 and 18 and 24 of those. These are the cases that are really, really having significant dividends for the citizens.

When the first Ombudsman, Arthur Maloney, set up his office, I understand that he looked at Parliament and saw there were 125 MPPs. So he turned to the government and said, "I want 125 employees," and that's what he got. I have 85 of them, when the government has grown tenfold 30 years later. Of course, the luxuries at the time, for the kinds of things that he used to do, like hearings, for example—he did hearings, he did all types of things that really are beyond the reach of the office right now because we just don't have the resources. When you ask me what kinds of things we could do, my answer would be: a lot more of the kind of field investigations, a lot more thorough work than we're doing now. I think right now the \$9 million we expend a year for the kind of results that we're able to produce is fantastic. But if the resources were greater, I think the results we would be able to produce would be a lot greater as well.

Mr. Peterson: I take that at face value. I'm sure that's the case. With \$9 million, if you can only do six, could you give us a list of the next 12 or next six that you would substantially like to investigate and allow us to help you monetize that? We have a heck of a time finding budgets for anything other than health and education. I guess where people do get money out of us is where they say, "If you give us this, we can deliver this," not say, "If you give us this, take it on faith; I'll deliver more."

Mr. Marin: I'd be happy to do that.

Mr. Peterson: I hope you don't find that insulting or—

Mr. Marin: Not at all. I'd be happy to do that. It crossed our mind—I'll tell you about one of the deliberations we had in our office when we received all these MPAC complaints. We were having requests to do a

town hall in Ottawa, go do a town hall in Toronto, go do a town hall in Sudbury, go speak to this bear pit. We were having so many of these that it occurred to us that this may be an adequate case to have a public hearing, as Arthur Maloney had, but we just can't afford a public hearing. We can't afford the set-up, the calling of the witnesses, this kind of thing. That's the first example that comes to head. Why should citizens be left organizing this in this area, organizing this—I've been sending observers as much as I can to these various sessions, but it allows for a real opportunity for citizens to vent, express themselves to someone who can really make a difference, which is the Ombudsman of Ontario. But I accept your invitation, and we will produce for you a list of things we would do if we were better resourced.

Mr. Peterson: In my own riding, I tell my staff there's no complaint we won't help people with. I turn my staff into social welfare workers for people of any nature. Maybe there's a coordination that is not being done here properly between the MPP's office, the Ombudsman and the outreach of all the various ministries. If you walk into these ministries, they'll think they're doing a good job. I don't know; maybe there's a better coordination here for government to be more responsive as a totality that you could look at and advise us back on. You must have the resources, because I don't. I throw it to you, because I wouldn't know how to do it. With the complaints you get, maybe there's a better way of the whole system being coordinated through the ministries, the MPP's office and your office.

The Chair: Thank you, Mr. Hardeman.

Mr. Ernie Hardeman (Oxford): Thank you very much for being here this afternoon. I want to say that in that number of years you mentioned, the MPPs have gone from 125 to 103 too, so maybe there is some justice in the world.

There are a couple of issues that I wanted to touch on. One was the issue of—and I want to say, first of all, I agree with the investigation you're doing on MPAC to make sure that we deal with the process they use to actually create the evaluations so that my public understands it. And the other issue: You win one once, and you have to start the fight for the next one the next day, because it will be two years down the road and they're already doing the next assessment.

I guess my question really becomes the jurisdiction. I spent many years as a municipal politician. I also spent a couple of years over at MPAC and some years with the Who Does What panel that created MPAC. When it was originally created, it was created as a body of the provincial government. It was called OPAC. It was then changed, because the provincial government, shall we say, walked away from it, or decided that that was going to be a municipal responsibility, run by municipalities, funded by municipalities, for municipal purposes.

Again, I look at the act. It says that because it's an organization of the government, you feel that you can do that, but it seems to me that if we're going to use that logic, so is a municipality. In fact, there is as much

control of a municipality by the provincial government through the Municipal Act as there is through the regulations to MPAC. So I'm wondering if we really do have the authority to do what you're doing. Again, I want to point out, I agree with you doing it.

Mr. Marin: I think there are two levels of analysis. One is the investigation of the provincial corporations set up to assess properties, but then the assessments provided to the municipality that applies the mill rate and how they do their end of things. So we would not have jurisdiction over that part, but we would have jurisdiction over how MPAC conducts the assessment of property in Ontario. That is not an issue at all at this stage. We've had discussions with MPAC officials on that. They had some concerns at the beginning, but they've accepted that we have full jurisdiction to look at the issues we're currently looking at.

Mr. Hardeman: What you're really doing then is investigating the appropriateness of the regulation, rather than how MPAC is being run. The chief executive officer of MPAC is not being paid by the provincial government, he's being paid by municipal governments, so there's no direct connection there. I understand the regulation.

The other part that I just wanted to quickly touch on, and I do have a real concern about, is you talked about dealing with the issues that affect the greatest number of people, to have the greatest impact for the resources that we're putting in. It's a laudable goal, but the problem is that my people believe that the Ombudsman's office isn't there to serve government or to serve the general population, but it's their only hope of getting their particular concern looked after, because they don't believe that government is treating them fairly.

So I really get concerned when we hear that we don't want to look at individual prisoners' concerns but we want to look at the systemic problems within prisons. It needs to be done, but I think the Minister of Correctional Services should look at appointing someone to look into that. I think the Ontario Ombudsman should be there to look after one person, and that should be just as important as looking after 1,000 people. The end result for me and for my constituents—it's not important whether the solution you come up with or negotiate with the minister affects other people. I want to make sure that my Ombudsman represents my interests.

Our office, as Mr. Peterson mentioned, gets a lot of calls, and their only hope, after we've gone through all the channels—we've investigated with the minister's office and done this and done that—is to contact you. I don't want the situation where we say, "Yes, but you're just one person. You're not important enough to be looked after. I'm sorry, because we've got some of these big cases. We've decided to change from six to 12, so we haven't got time to look after yours." I'd just point out that I think that's a real concern if that's where we're going.

Mr. Marin: That's not where we're going. I'm very sensitive to what you've said, and I agree with what you've said. Perhaps I can bring you clarification. What

I'm saying is that there are various ways to respond to complaints. We respond to every single complaint that comes to our office, but that doesn't mean we'll be producing 30-page reports after a field investigation. So we won't be hanging up the phone on anybody. We will investigate thoroughly each and every complaint that comes to our office, but not every one of them will result in a field investigation. Why? Because we don't have the resources. Right now, if we achieve six per year—the number six is small, but it's ambitious to be able to do six with the current resources that we have.

I'm very sensitive to the point you've made. Complainants will not be turned away because we're conducting systemic investigations, but not every investigation will be done the same way.

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Mr. Hardeman: Lastly, if I could—just one more comment, Mr. Chair?

The Chair: I was just going to say, with regard to the point you brought up on MPAC, would it be helpful now, in the context of your question, if our legislative research officer reviewed some of the material that he shared with us earlier, and then come back to that?

Mr. Hardeman: I would appreciate that, Mr. Chair, to make sure. I just want to be comfortable with it. I have to defend this to my municipal colleagues; I'm also critic for municipal affairs and housing. Obviously, people want to know how this works, so I think that would be helpful.

The Chair: The legislative research officer, Philip Kaye.

Mr. Philip Kaye: One of the questions I wanted to ask had to do with the new procedures established by the Ombudsman's office in April of this year. These procedures deal with the Ombudsman's powers to make public comments regarding investigations, to issue reports and to use personal information. They've been made under the authority of subsection 15(3) of the Ombudsman Act.

My question has to do with the authority of the Ombudsman under that provision of the Ombudsman Act to determine his or her procedures. I notice that two of the issues falling under the new procedures—the Ombudsman's powers to comment publicly on investigations and to make reports to the House—were the subject of recommendations of the former standing committee on the Ombudsman.

In 1993 and 1997, for instance, the Ombudsman committee recommended that the Ombudsman Act be amended to empower the Ombudsman to "comment publicly in order to make known the existence of an investigation or the outcome of a particular case." As well, in 1997 the committee proposed that the public comments be made "by means of a special report to the assembly...."

In regard to the Ombudsman's reporting powers, the Ombudsman committee, again both in 1993 and 1997, recommended that the Ombudsman Act be amended to authorize the Ombudsman to make special reports on the

performance of his or her duties. Just in regard to the reporting power, a government bill was introduced in 1989 by then Attorney General Ian Scott which would permit the Ombudsman to "make a report to the assembly respecting a matter relating to the performance of the Ombudsman's duties."

In a nutshell, my question is, to what extent, in determining your procedures under subsection 15(3), do you consider whether or not a matter requires an amendment to the Ombudsman Act, as opposed to a procedure that can be determined by the Ombudsman's office?

Ms. Wendy Ray: Actually, as long as it's not in contradiction with the legislation, the Ombudsman can make rules under section 15. Of course, it's always nice to have things in legislation, and it gives it another piece of authority that supports it. But as long as it's not in contradiction, the Ombudsman can make any rules under subsection 15(3). Regarding the two sections you're talking about in terms of public comment, that's exactly what happened in this particular case.

Mr. Kaye: I notice that in November 1996, Ombudsman Jamieson commented to the Ombudsman committee about the recommendation that had been made proposing an amendment to the Ombudsman Act dealing with the public comment power. In her submission to the committee, she responded that the Ombudsman's power to comment publicly were extremely restricted, at least according to what is expressly granted. She went on to say it would be helpful in this regard if the Ombudsman's powers of public comment were extended to include the authority to make reports to the Legislature and comment publicly on matters of public importance. The implication in her comments as I read them were that an amendment to the Ombudsman Act would be required.

Ms. Ray: At the time, if you actually look at it in terms of the context, she also asked, for example, to be able to do public education, which is something that's not prohibited by the legislation and we continue to do today. The fact of the matter is, as long as it's not prohibited by the legislation, we can make rules. In this case, it's to have public comment. If you look at the procedures, they're actually pretty specific on when the Ombudsman will do it and under what circumstances.

The Chair: One final point. Mr. Hardeman still has the floor; Mr. McMeekin wants to get in one question. Let's see if we can fit it in before 6.

Mr. Hardeman: I just had one general comment, and it relates to the same thing about the individuals, making sure that we keep an Ombudsman for the citizens as opposed to for good government policy. I just want to be assured that as the reports come in—and up to three or four that you mentioned were broader than the individual issue. I have a concern that we are getting very close to that line of deciding that we don't like government policy. In those cases, the minister agreed, but to me, an Ombudsman is there to make sure that all our citizens are being dealt with fairly and not leaving it to those who complain to the Ombudsman to get the rule changed so they get looked after.

You looked at the one with the medical. I could bring you a dozen cases that would fit that same thing with different medicine that didn't get to the Ombudsman and that are still covered by that same problem of not being on the list. We need to be very careful that we don't get into the policy area, even though it may not be good policy. People do have a right to have their politicians be wrong. They keep telling me they have that right because they tell me I'm wrong on a regular basis.

I just caution that we need to be very careful. We want to get close to the line to make sure we do the best we can for the people we jointly represent, but at the same time, I want to make sure that I keep my job, and that way, you can keep yours, too.

Mr. Marin: I want to reassure the member that I fully agree with what he said. Today I was addressing our staff and investigators, and I said to them that for individual complaints, a low-key response is the heart and soul of any Ombudsman's office. We should in no way interpret our not doing more systemic work as diminishing the value of individual complaints.

The Chair: Just before we go to Mr. McMeekin, the legislative research officer had one final point that he had wanted to clarify.

Mr. Kaye: The other issue where I thought clarification might be helpful had to do with the Ombudsman's powers to hold public hearings. There's no doubt that under the Ombudsman Act, the office has the power to conduct hearings, and I refer in particular to subsection 18(3) and subsection 19(2) of the act. Plus, there is an example of very extensive hearings held by the office, starting in 1976, where the hearings extended over 387 days.

My question focuses on subsection 18(2) of the Ombudsman Act, which says, "Every investigation by the Ombudsman under this act shall be conducted in private." There is a publication entitled the Annotated Ombudsman Act, which is co-edited by Michael Zacks, former director of legal services for the Ontario Ombudsman's office. It says it takes "the broad and liberal approach to interpretation of the Ombudsman Acts approved by the courts." In this publication, the Annotated Ombudsman Act, they write that a private investigation "is one not done in public. That is, the Ombudsman may not hold an open, public hearing at which the public may attend." There seems to be differing interpretations of the scope of the hearing power where clarification, I think, might be helpful.

Mr. Marin: I think, Mr. Kaye, that Ombudsman legislation ought to be interpreted in a broad and generous fashion. I also believe that it is comparable to when you look at a constitutional document and you look at it as a living document—the living tree analogy, for example. It is not set in time; it evolves.

If we ordered a hearing today and said it was private, as opposed to public, no doubt we would at that time be faced with applications under the charter to make it open and so on. The charter didn't exist in 1975.

I can't answer your question right now. I guess we'll cross that bridge when we get there. Certainly from the passages you've read and from the context you've told me, I agree with the statements you've read. I'd have to take closer consideration of those passages and the arguments. We've had preliminary discussions about that and we haven't arrived at a definite answer because we don't envisage any public hearing at this stage.

The Chair: The last word will belong to Mr. McMeekin.

Mr. McMeekin: Mr. Marin, another issue that came up—let me go straight to it—was around the city of Toronto. There was a reference made to some comments about your office, that given some of the things happening, that the city of Toronto might be the ideal kind of place to watch as the Ombudsman's function. I think we're public on this, with the City of Toronto Act, that in the spirit of the so-called mature community around the Integrity Commissioner and ethics—a city of Toronto Ombudsman, I think was the proposal.

Let me just express another concern that I have. We were told that you had written to the Premier about this. I appreciate that. There obviously will be some sort of political discussion at some point on the wisdom of that. I'm from the city of Hamilton, the amalgamated city of Hamilton, the new and improved city of Hamilton. There are, from time to time, concerns in the city, as I suspect there are in Toronto, and perhaps in Ottawa, London, Sudbury and Windsor. I'd be a little worried on two fronts around the issue of Toronto. One is that perhaps you're taking on too much time. Bigger isn't always better. We've found that in Hamilton, in some instances. Secondly, if you were to move into that role, might you be consumed with Toronto issues at the expense of issues from my beloved city and other big cities with the same sorts of issues?

Mr. Marin: The short answer is that we never said we'd do the oversight of the city of Toronto for free. If ever we would ask, we'd have to cost it out and it would be a separate issue. It would certainly not be at the expenses of the resources used to provide oversight to the province of Ontario.

On the whole issue of jurisdiction, I'd be quite happy to come back on another occasion and just talk about that. I realize we're a little short on time. The honourable member's question is an important one. The Ombudsman Act of Ontario has not changed in 30 years except for reducing the tenure of the Ombudsman from 10 to five years. Every single province provides for greater oversight in areas such as municipality. The province of Manitoba oversees the city of Winnipeg. In British Columbia, the Ombudsman has jurisdiction over all municipalities, and New Brunswick and Nova Scotia as well. Whereas Ontario has stagnated, a natural area is to look at municipalities.

Mr. McMeekin: Just so I'm clear, it's an option you're presenting to get on the table at this point.

Mr. Marin: Yes.

Mr. McMeekin: I recognize that there are a couple of different philosophical approaches here: consolidating resources, economies of scale, economies of experience and all those sorts of thing. The other side of that that we have to look at as well is a bit corny, that small is beautiful and intimate and what have you. I just register that concern.

The Chair: Although this has been a very engaging discussion, we must bring it to a close. Thank you very

much, Mr. Marin, and to your staff, for having come in to spend some time with us. I foresee that we'll probably invite you back.

Mr. Marin: Thank you very much, Mr. Chair. It's been a pleasure.

The Chair: The committee is adjourned.

The committee adjourned at 1806.

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Official Report of Debates (Hansard)

Thursday 8 December 2005

Journal des débats (Hansard)

Jeudi 8 décembre 2005

Standing committee on the Legislative Assembly

Duffins Rouge Agricultural
Preserve Act, 2005

Comité permanent de l'Assemblée législative

Loi de 2005 sur la Réserve
agricole de Duffins-Rouge

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 8 December 2005

Jeudi 8 décembre 2005

*The committee met at 1529 in committee room 1.*DUFFINS ROUGE AGRICULTURAL
PRESERVE ACT, 2005LOI DE 2005 SUR LA RÉSERVE
AGRICOLE DE DUFFINS-ROUGE

Consideration of Bill 16, An Act respecting the Duffins Rouge Agri-cultural Preserve / Projet de loi 16, Loi concernant la Réserve agricole de Duffins-Rouge.

The Chair (Mr. Bob Delaney): Good afternoon, everyone. This is the standing committee on the Legislative Assembly. We're meeting today for consideration of Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve.

SUBCOMMITTEE REPORT

The Chair: Our first order of business is adoption of the subcommittee report. Mr. Orazietti.

Interjection.

Mr. Rosario Marchese (Trinity-Spadina): Does he have to read it for the record?

The Chair: Yes.

If you wish, given the condition of your voice, you can ask Mr. McMeekin to read it.

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Your subcommittee on committee business met on Monday, December 5, 2005, to consider the method of proceeding on Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Bill 16 at its regular meeting time on Thursday, December 8, 2005.

That's today; right now.

(2) That notice of the hearings be provided by news release through Canada Newswire, and also be posted on the Ontario parliamentary channel and on the Internet.

(3) That the Ministry of Natural Resources be invited to provide a technical briefing to the committee on Thursday, December 8, 2005, at 3:30 p.m. for up to 20 minutes.

(4) That each party be allowed up to five minutes for opening statements at the beginning of public hearings.

(5) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses.

(6) That clause-by-clause consideration of the bill be scheduled on Monday, December 12, 2005, subject to authorization by the House of committee meeting time.

(7) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That is the report of the subcommittee.

The Chair: Motion to adopt? Mr. Orazietti.

All in favour? Opposed? Carried.

Next order of business: The subcommittee report was silent on the time for clause-by-clause consideration of Bill 16. Can I have a motion for our meeting on Monday?

Mr. David Orazietti (Sault Ste. Marie): I move that the committee meet on Monday, December 12—excuse my voice here—at 10 a.m. for clause-by-clause consideration.

The Chair: Mr. Orazietti has moved that clause-by-clause consideration begin Monday, December 12, 2005, at 10 a.m. Discussion? Those in favour? Carried.

The subcommittee report was silent on the deadline for filing proposed amendments, which is conventionally 4 p.m. on the close of business the day before, so that would make it 4 p.m. on Friday. Discussion? Carried.

Finally, off the topic of this bill, would the committee move to reschedule its meeting regarding the review of the use of technology in the chamber for next Thursday, December 15, 2005, after routine proceedings? All right? Done.

Mr. Tim Peterson (Mississauga South): You're rescheduling that—

The Chair: Yes, next Thursday, December 15, after routine proceedings.

Mr. Marchese: Instead of today.

The Chair: Instead of today; this one superseded it.

MINISTRY OF NATURAL RESOURCES

The Chair: At this point, we move to the technical briefing by the Ministry of Natural Resources staff. Welcome this afternoon. Perhaps you could begin by introducing yourselves and any delegation from the ministry that may be here, and then proceed.

Mr. Kevin Wilson: Good afternoon, Chair, and thank you. My name is Kevin Wilson. I'm the assistant deputy minister with the natural resource management division with the Ministry of Natural Resources. Here with me is

a manager from our lands and waters branch, Eric Boysen. Eric will be walking through our technical presentation of the bill for you this afternoon.

The Chair: Please proceed.

Mr. Eric Boysen: My name is Eric Boysen. I'm a manager of the land management section. The section I'm responsible for has carriage of a whole bunch of public lands administration, and therefore I was intimately involved in the issues of the easements and how they work. With me, I've got Krystine Lintell who, as legal counsel, has been involved in the drafting of the bill, and Rick Laprairie, who's with our central agency liaison and deals with a lot of interaction of government policy and how to interpret that into action.

In front of you, we've given you a short slide presentation. Before I launch into that, I would just ask whether you would like to get a refresher on the history of the issue, or whether you would prefer to dispense with that part. There are two slides that give you the background, but I understand this has been dealt with in the House already.

Mr. Marchese: Dispense.

The Chair: Motion to dispense. Dispense.

Mr. Boysen: Given that, let's flip forward to slide number 5. Our intent here today is to give you a broad outline of what the act is and to answer any questions that you may have as to how the act works and how it may be enacted when it's finally passed.

Bill 16 is An Act respecting the Duffins Rouge Agricultural Preserve. The proposed legislation will—and this is a very important point—reinstate the easements previously held and released by the city of Pickering. That was the focus of this legislation, and it was the issue that drove the bill itself.

It will ensure that all conservation easements in the Duffins Rouge Agricultural Preserve are held in perpetuity. That was the key point of the agreement that was made between the Ontario Realty Corp., the provincial government and the landowners, that these lands are very important for agricultural purposes and perpetuity was a very key concept. As you know, less than five years after the easements were registered, some of them were taken off title. So that wasn't a very long period of perpetuity. That's one of the issues we're trying to address.

We want to also protect the province from financial actions and liabilities related to the reinstatement of these easements.

Slide number 6, the purpose of the bill: The bill overrides any agreement or court order that invalidates an easement or covenant given or entered into under the Conservation Land Act on or before February 28, 2005.

The bill will also amend the Conservation Land Act, which is a piece of legislation that's administered by the Ministry of Natural Resources, to clarify, first of all, an easement or covenant under the act to be for the conservation, preservation or protection of land for agricultural purposes. That was a point of dispute for some of the people who were dealing with this issue, and this amendment will clarify that.

The amendment of the CLA will also clarify that an easement is valid for the term specified in it and cannot be released or amended without the consent of the Minister of Natural Resources. We're basically asking that any amendment to an easement be brought back into a public forum, that it can't just be a business transaction that removes a covenant that was registered.

The results of this bill, on slide number 7: If passed, these legislative changes would support a number of other government initiatives, including some of those in our own ministry that support the long-term stewardship of our natural heritage on private land. These include the Greenbelt Act, the Oak Ridges Moraine Conservation Act, the Ontario Heritage Act and Ontario's biodiversity strategy, which was a strategy that was just passed and approved by the House and written by our ministry in the springtime; and then our own MNR natural spaces program, which is a program that was announced by the Premier and our minister in August.

I've put a map at the back. There had been some confusion in both the press and some people's minds as to what part of the Duffins Rouge Agricultural Preserve we've actually been talking about. I do have coloured copies if that would be of better assistance to the members.

The Duffins Rouge Agricultural Preserve was a broader area that was, as you know, part of an area that was expropriated to develop the planned Pickering airport in the 1970s. It extended over into York region, but this act specifically deals with those lands that are in the region of Durham and the easements were held by the city of Pickering. So it's very much focused in on this geographic area that you see in the map in front of you.

The act itself is not very long. I think you've suggested it should go to clause-by-clause reading, but if there are any questions about the functioning of the act, the purpose of the act or how this might work, we'd be glad to address those questions right now.

The Chair: Thank you. Questions and comments?

Seeing none, then, thank you very much for coming today and for your briefing.

At this point, we normally have opening statements. Is there a desire for opening statements?

Mr. Marchese: Mr. Chair, can I move that we dispense with the five-minute statements, if there's agreement?

The Chair: Mr. Marchese has moved dispensing with opening statements. Any problem with that? OK, carried.

ROB LYON

The Chair: That brings us to our first deputant, if he's in the room. Is Mr. Rob Lyon in the room? Not only do we run on time at Queen's Park, but sometimes you get on early.

Welcome this afternoon. You have 10 minutes to present to us. If you choose to leave any part of the 10 minutes free for questions, then I'll divide the time

evenly among the parties for questions. The floor is yours. Welcome and please continue.

Mr. Rob Lyon: Good afternoon. Thank you for the opportunity. My name is Rob Lyon, and I live in the Duffins Rouge Agricultural Preserve. I purchased my property—my wife and I purchased it—about five years ago on the open market, MLS listing. We paid full MLS list price for it, and we have a 980-square-foot bungalow. My neighbours on both sides have 11,000-square-foot and 5,000-square-foot homes. I'm rather the odd person out.

1540

Just so that you understand where the agricultural preserve is, the top of it is Highway 407, the bottom of it is the York-Durham sanitary trunk sewer, the road through the middle is a four-lane highway called Taunton Road, the boundary on the west is Townline Road and, of course, on the east is Duffins Creek. It has two municipal water reservoirs that exist at this present time.

My wife and I bought this home to have privacy and a better location. We've worked very hard to develop our home. We've upgraded it. I am here to unanimously vote down this bill and to find another way to do what you're proposing.

The agricultural easements that are in question were placed only on 47 of 96 properties which were sold. That constitutes 49%; 49% is not even a majority. Properties in the agricultural preserve that were sold with easements were 49%; the ones without were 51%. They varied in size between just a few acres up to over 100. My neighbour, Betty Burkholder, her property is almost 200 acres and it has no easement.

I'd like to speak a little bit about respect. Under the Charter of Rights and Freedoms, 15(1) says, "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination." I feel that this bill is discriminatory. To pass it is to deny me my rights, and it is to rebuke democracy. As most of you are democratically elected, I think that's self-evident. To reinstate these easements would discriminate against me and the other people who are landowners or homeowners in the ag preserve. It should be on all properties or it should be on no properties, but it shouldn't be on 49%, because that is clearly discriminatory. Please find another way.

Much has been said about the sale of the agricultural preserve lands. Ontario Realty Corp. sold the lands back to the farmers, as it was required to. In 1972, it expropriated those lands. Under section 42 of the Expropriations Act, under which they were expropriated, it had a duty, when it no longer chose to do what it had wanted to with those lands—it no longer chose to develop them as a century city, as it was first projected—it had to sell them back. It had to sell them back at fair market value. I actually went and met with the head of MPAC—the supervisor for agriculture for the province for MPAC—and he said fair market value is 3,000 to 5,000 acres, willing seller, willing buyer. Very clearly, the farmers didn't get a great deal; they got fair market value.

Further, there's a letter to the clerk of the city of Pickering, dated January 19, 2002—and I've included a copy just so you can reference it—from the Ontario Realty Corp. executive vice-president. His name is Brad Searchfield. He stated, "The business affairs of the farmers is, of course, their private business. Similarly, after Ontario Realty Corp. transfers land pursuant to the program, it is the right of an individual in this country to convey their property as they see fit." If you read through that letter, which I've enclosed for your benefit, you'll see that the government, at the time of the sale, was well aware of it—that it only put it on 49% is clearly an oversight. So now, I'm asking you to find a better way to do this. Reinstating these easements is problematic for all of us.

Meetings, meetings, meetings: I've been to so many meetings. Five years ago, there was a meeting that started; it was a public event within walking distance, out the back door from my house. Mr. Jim Robb sponsored it and David Crombie, Sewell, Ecker—we had a lot of people who came and spoke. Mr. Robb handed out flyers, which clearly said that it was a public resource and that it was theirs. It's not a public resource; the land belongs to individual people. It had been sold, as required by law, to these people and they sold it to someone else: quel dommage. It's not a public resource. He didn't change it. He stuck to this until he'd handed out thousands of these things, yet he apologized to my wife fairly recently for making what he called a "clerical error" or something.

The Crombie task force was tasked to have a look at this. I have a copy of their mandate. Mr. Crombie was clearly outside of their mandate, yet he went on to drop Markham and have principle 6, which is agricultural preserve in perpetuity. In perpetuity, according to most lawyers, and I'm sure we have some here, is 91 years, worst case—absolute worst case. It's a life in being, plus 21 years. Worst case, 91 years.

There have been more and more meetings: smart communities workshops, the greenbelt meetings, and they go on and on. I've been to many of these meetings, and all I advocate for is a fair, open, public and transparent process. I'm still waiting for that. I'm still waiting. It's regrettable.

The agricultural preserve is the most controlled piece of property on the face of Canada. We have two ministerial zoning orders, the Greenbelt Act and the OPDA, which is now planning on how to turn the agricultural preserve into 10- to 20-acre parcels for hobby farms. John van Nostrand is the consultant for the Minister of Municipal Affairs, and that's his vision for the agricultural preserve. It's not to produce farms; he wants non-viable hobby farms, where the principal source of income is from other people, from other sources.

I'm dismayed by the lack of honesty in and around this issue. Environmental Defence Canada handed out pumpkins a year ago on Halloween. I'm sure many of you even received them. Their actual claim was that it's near—actually, I made a mistake when I wrote it because the inference was very clearly that these pumpkins were grown in the agricultural preserve. I'm here to tell you

that none of those pumpkins were grown in the ag preserve, because my crop failed. The pumpkin plant grew and it didn't produce any pumpkins, so there were no pumpkins grown in the preserve. The pumpkins that were given out at Queen's Park were given out as a publicity stunt. Dr. Rick Smith has actually confirmed that they were grown in Markham. "But it's near; it's close." If it was so near or close, why didn't they hand out oranges or something that people could actually eat, instead of pumpkins? It's a pretty sad reflection on the environment movement that they have to resort to this sort of deceit, trickery or whatever you care to call it. I'm very disappointed in this.

The responsibility to govern is the greatest privilege that a democracy has to offer, and you have that privilege. You all govern. You are collectively the government. You have the choice. You are elected freely by the people. It's clearly a privilege, but I'd like to quote something for you: "To ignore the obligation to confront difficult ethical dilemmas and unclear or inappropriate rules is to ignore the essence of public service." You are all in public service. I actually referenced where that came from.

I'd like you to find another way to do this. If this is clearly your undertaking—

The Chair: Just to advise you, you have a little bit more than a minute remaining.

Mr. Lyon: The implementation of the Duffins Rouge Agricultural Preserve Act may be in the greater public interest and it may be a tribute to the government, but not if it's a law passed as it is. It does more to derision than anything else. The rift between urban and rural dwellers is now a chasm and growing wider every day. The very farmers this legislation purports to protect are protesting it.

1550

My last comment: It is said that within government, values are what one does when no one else is looking. Everyone is looking at this, at the values of your government on this issue, and waiting to see how you will act. However, as Canadians, as Ontarians, we should all accept only a fair, intelligent, sustainable environmental decision based on science and economics. If the Duffins Rouge Agricultural Preserve Act is it, it's a pretty sad reflection.

The Chair: Thank you.

Mr. Lyon: Please seek advice from the Attorney General. Go to the court system. It is the cornerstone of our democracy.

The Chair: Thank you. That concludes the time we have for your presentation. Thank you for coming here this afternoon.

WHITEVALE AND DISTRICT RESIDENTS ASSOCIATION

The Chair: Our next deputation is from the Whitevale and District Residents Association. Is Sandy Rider in the room? Yes, you are.

Mr. Jean-Marc Lalonde (Glengarry-Prescott-Russell): On a point of order, Mr. Chair: I'd just like to advise people that we have with us today two persons who are celebrating their anniversary: my colleague Ted McMeekin and also our highly competent Jerry Richmond. They were born about 40 years ago.

The Chair: Well, congratulations to everybody on the anniversary of their 39th birthday.

Ms. Sandy Rider: Mine is as well today.

The Chair: Is it really?

Ms. Rider: Immaculate Conception Day. So congratulations.

The Chair: Well, then, welcome and happy birthday.

Ms. Rider: Thank you.

Mr. McMeekin: It's your birthday too?

Ms. Rider: Yes. Thirty-nine.

The Chair: Ms. Rider, you have 10 minutes for your deputation here today. Welcome to you. Begin by stating your name for the purposes of Hansard, and then please continue.

Ms. Rider: My name is Sandy Rider. I'm president of Whitevale and District Residents Association.

I've been working on the process that resulted in an agricultural preserve since 1991. A great deal of time, effort and discussion has taken place since then.

The NDP, at that time, started this process by working to return an area of the expropriated airport lands to the farmers and tenants for agricultural uses only while maintaining the lands in public trust.

The Conservatives, when they came to power, wanted to see the lands sold outright and, after much discussion, agreed to agricultural easements to protect these lands in perpetuity for agricultural purposes.

The Liberals, as part of their platform, stated their definite intent to maintain these lands as an agricultural preserve, and Bill 16 proved it.

The developers who bought a great deal of these lands pressured Pickering council to lift the easements so they could build houses. Pickering council, unilaterally and arbitrarily, did so without notification to the four other parties—I was one—who were signatories to the easement-enacting memorandum of understanding, negating the intent of all three parties.

It takes courage to overturn a wrong and make it right. The insight of the politicians who support Bill 16, which will return the easements to these lands, is to be applauded.

On behalf of the residents of Whitevale and those in the surrounding district whom I represent, we do definitely thank you.

Short and sweet.

The Chair: Thank you. That leaves a little time for questions. We should have time for perhaps two questions from each caucus, beginning with Mr. Miller.

Mr. Norm Miller (Parry Sound-Muskoka): Thank you very much for your presentation. I guess I'll come back to a point that came out in the presentation that the Ministry of Natural Resources made, and the presenter before you also hit on it: the value at which the land was

sold back to owners from the Ontario Realty Corp. In the presentation from the Ministry of Natural Resources, they said that the price of the lands was based on the value of land for agricultural purposes—

Ms. Rider: That is correct.

Mr. Miller: —and that as a condition of sale, the purchaser of the land was required to agree to an easement that would protect it for agricultural purposes in perpetuity. I guess for our last presenter—I mean, that seems fairly clear to me, and I would think there's a difference in terms of market value of agricultural land versus land that's going to be developed.

Ms. Rider: Yes.

Mr. Miller: That's kind of a key thing for me. Would you say that it is correct?

Ms. Rider: That is correct.

Mr. Marchese: Ms. Rider, you're happy with the bill. Is there anything that you would add by way of an amendment to make it stronger or better, or are you happy with the way it is?

Ms. Rider: I'm happy that the bill has gone before the Legislature, because if the easements are not put back on, the land can be reinvestigated within 10 years, and that can change all sorts of things. This land was to be an agricultural preserve; this bill will ensure that.

Mr. Marchese: One of the questions the New Democrats raised in the Legislature during the debates was that the minister, in the future, could decide the fate of easements one way or the other, and his or her word would be final; there would not be any debate. What we said is that if the minister should decide to lift the easements on his or her own, there should be a public debate in the Legislature before, or simply a debate in general. Do you think that's a good idea or are you happy either way?

Ms. Rider: I agree. I think that's a good idea.

Mr. Marchese: It's one of the improvements we were talking about or thinking about.

Ms. Rider: That would be a good one.

The Chair: Thank you. Mr. Oraziatti.

Mr. Oraziatti: Thank you, Chair. I have no questions.

The Chair: Thank you very much for coming in, Ms. Rider, and for taking the time to make your deputation before us. Have a good weekend.

The Pickering Ajax Citizens Together for the Environment, Mr. David Steele. Is he present?

Interjection: He's not here yet.

The Chair: He has not arrived yet. OK.

MILTON RURAL RESIDENTS ASSOCIATION

HALTON REGION FEDERATION OF AGRICULTURE

The Chair: The Milton Rural Residents Association and Halton Region Federation of Agriculture, you're on. Welcome this afternoon. You'll have 10 minutes to do your deputation before us. Please begin by stating your name clearly for the purposes of Hansard, and proceed.

Dr. Lieven Gevaert: My name is Lieven Gevaert. I'm a director of the Halton Region Federation of Agriculture. I'm also director of the Milton Rural Residents Association. You have the presentation and the appendix. What I will try to do, hopefully in about six minutes, is: (1) discuss the issue of farmland effectiveness; (2) geography; (3) property rights; (4) the Conservation Land Act; (5) some specific comments on specific words; and (6) recommendations, then hopefully, some time for questions. I will try to be very brief.

(1) Farmland effectiveness: The appendix shows a letter from Ron Bonnett, who is the president of the Ontario Federation of Agriculture. He states very clearly what I'm going to describe as the ineffectiveness of the preserve as farmland. He states two things: because it was expropriated, the location lost all its agricultural infrastructure. If you look carefully, the majority of the usage was for oil and grain crops which can be grown without any capital infrastructure. That was because of the disappearance of the infrastructure. The other comment that he made was that the preserve is about ideology, not pragmatism, and that the land is, at best, now marginal for agriculture.

(2) Geographic location: I believe this land is very close to the Seaton lands, and I'm trying to draw a comparison as to which is more important. As I understand it, the Seaton lands were owned by the taxpayers and are about to be flipped over somehow as compensation for landowners who had land in the Oak Ridges moraine. Interestingly enough, the environmental sensitivity of the Seton lands is very high. With cold water streams and good forests much more sensitive than these lands, it seems like a strange choice to make on which of the lands are supposed to be kept.

(3) Property rights: The process of properly executed and agreed-upon outcomes, whether they be by agreement within a court of law or done by cell by two non-forced citizens, is now going to be invalidated by this bill, as I understand it. This is unjust, just as the prior Greenbelt Act was unjust. However, the Greenbelt Act is a precedent upon which this seems to have been done. A small minority of owners, compared to the citizens of Ontario who were supposedly going to benefit, have their rights taken away. That is not just.

1600

(4) The Conservation Land Act: The inclusion of land for agricultural purpose is very strange and somewhat cynical because it supposedly means that agriculture will now be protected by conservation authorities. If you look at the next page, you will see an example where conservation authorities—I did not name it; if somebody wishes to know, I'll tell them—have in fact acted in a manner totally unjust to farmers. This will continue. As a farmer, I do not want to be under any kind of conservation authority easement. That is unacceptable and it will harm farming, now and in the future.

The comments on specific parts of the bill are in here. I'm not going to talk about them.

Recommendations: Number one, based on the above concerns, the main recommendation that our two groups

have is to withdraw this bill. Number two, if for some reason that cannot be done, then Bill 16 must be written in such a fashion that property rights are respected to the fullest for the people who will be affected. If this bill does carry on, then there must not be any control, perceived control or future control of the Conservation Land Act. If Bill 16 is to be written, then the issues referred to in section V of my presentation, which talk about limitations, set free, no appeals and all that sort of thing, need to be reviewed. There should at least be an independent appeal body, not the minister, through which you would have to go if you want any change.

I'm going to conclude my remarks, and I invite questions. Thank you very much for the opportunity to talk to your honourable members.

The Chair: Thank you for coming today. We should have time for about a minute from each caucus, beginning with Mr. Marchese.

Mr. Marchese: The NDP has been pushing for this for quite some time. The Tories in 1999 signed an agreement between the provincial government, the region of Durham and the city of Pickering stating that all lands in the Duffins-Rouge Agricultural Preserve would be preserved for agricultural purposes in perpetuity. So we were pushing for this. They finally introduced a bill in 1999. So all three political parties are now, so to speak, in sync. Which political ideology are you referring to when you say it's all about ideology and not something else?

Dr. Gevaert: First of all, I can't comment on that strictly because that was a comment that was taken from Mr. Bonnett's letter. I'm going to say that possibly he might have meant—I can't verify it—the ideology of common property as the common right of society, rather than property as still the right of the individual. I am interpreting what he said. I don't rightly know because I didn't say it.

Mr. Marchese: OK. A quick question. Did you say the land was marginal for agricultural? Was that you stating that?

Dr. Gevaert: Yes, I said that.

Mr. Marchese: Could you explain what you mean by that?

Dr. Gevaert: By the way, Mr. Bonnett said the same thing, again, in the appendix, but what I mean by that is after 20-plus years of non-surety—the greatest problem to farming is non-surety. After it was expropriated, for 20-odd years, there was non-surety. Therefore, the only farming that was done—and it doesn't necessarily have to be class 1, class 2 or class 3 land, but it also has to be the infrastructure. The only thing, really, without much capital investment, was grains and oilseeds, which is corn, wheat and soybeans. Those things can be grown with nary any capital cost. But you may have noticed that there were not pig or cattle barns, because that requires a large amount of capital input, and when you have land which isn't clearly defined and clear, that's not going to happen. That's my reason.

The Chair: Thank you. Mr. Orazietti.

Mr. Orazietti: We have no questions.

The Chair: Mr. Miller.

Mr. Miller: I'd just like you to expand on the comment you made to do with how you respect property rights and maintain the land for agricultural purposes.

Dr. Gevaert: My response to that is that you cannot by legislation deprive people of their right to the enjoyment of property by just saying, "You're restricted, and that's that." That, you cannot do, in my humble opinion. It's very clear.

Mr. Miller: This land, if I understand what the Ministry of Natural Resources said, was owned by the Ontario government and sold back at agricultural values only under the condition that it be used for agricultural purposes.

Dr. Gevaert: That is correct.

Mr. Miller: So what's changing here?

Dr. Gevaert: What's changing here is that somewhere along the piece, this bill has been introduced because some kinds of lawful things happened between whichever parties that indicated that the agricultural easements could be taken away. It wasn't illegal; otherwise people would have ended up in court and would have been charged.

Mr. Miller: You're referring to what the city of Pickering has done.

Dr. Gevaert: Yes, sir.

Mr. Miller: I guess the mayor, who's now a member of the Liberal Party, has been fairly public. It will be interesting to see how he votes on this bill, actually. But when the land was sold by the Ontario Realty Corp. it was the understanding that it was sold at agricultural prices strictly for agricultural use in perpetuity, which I would think means forever, personally.

Dr. Gevaert: I understand what you're saying.

Mr. Miller: What about your independent appeal bodies? Can you expand on that?

The Chair: And you'll have to expand very quickly, please.

Dr. Gevaert: Yes, sir. I'll do it very quickly. It seems to me that someone who is a sponsor of the legislation cannot also be, at the same time, the arbiter or the appeal body. It's like saying that the police charge me for speeding and a police officer is going to tell me whether the appeal that I make is right or wrong.

The Chair: Thank you, Mr. Gevaert, for coming in today, and for your deputation.

PICKERING AJAX CITIZENS TOGETHER FOR THE ENVIRONMENT

The Chair: Is Pickering Ajax Citizens Together for the Environment here? OK. Welcome to you.

Mr. David Steele: I've brought a map so we can understand what we're really looking at here.

The Chair: OK. Just for your information, most of us do have maps in front of us. While you can make refer-

ence to it, we probably have some that are in reduced form.

Welcome today. You have 10 minutes for your deputation. Please begin by introducing yourself for the purposes of Hansard and proceed.

Mr. Steele: Thank you, Mr. Chairman, for allowing me to be here. I was told that I was on the agenda at 4:20 p.m., so I guess I am on time. I'm here in reference to Bill 16, the environmental protection in north Pickering and the agricultural preserve.

In summary, we affirm that the land in Seaton is environmentally sensitive and contains diverse ecological habitats. The Seaton lands lie on the south slope of the Oak Ridges moraine and are underlain by large aquifers, which are equivalent to one million Olympic-sized swimming pools, that feed the Duffins and three cold-water creeks. The land is of equivalent, if not superior, environmental importance to that which is being protected in the Oak Ridges moraine.

If the Seaton lands had been in private ownership, not the province's, it would have been included within the provincial greenbelt. These lands and their underlying aquifers should be protected under the province's source-water protection act and not simply written off as a consequence of contamination by urban pollution—for example, road salt. That these waters will be impacted by urban development is known to the province as a consequence of several studies either commissioned by them or completed by the consultants for the city of Pickering and PACT. With the presentation, I have a document done by Professor Ken Howard in reference to the provincial plan for Seaton.

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The province has acted to develop these lands without having completed due diligence studies on the underlying water resources and ignoring its own legislation designed to protect groundwater for future generations. Given the environmental and resource significance of the Seaton lands, an appropriate EA process must decide their future. The Seaton lands are to be sold by the provincial government and are intended for future urban development, not preservation of environmentally sensitive lands. The sale of public lands, the private development of that land and the resulting environmental impacts are all very much related.

The province is ignoring independent environmental research that identified negative environmental impacts arising from the urbanization of Seaton, including (1) the Pickering growth management study, stages one and two; (2) the IWA 1997 Dillon's water balance report; (3) professor Ken Howard's independent review of the provincial plan for Seaton that was commissioned by PACT; (4) the terms of reference of the Pickering growth management steering committee, a number of community associations, which was to protect the environment and jobs first; and (5) the agricultural easements placed on the agricultural land are controlled by the city of Pickering.

Bill 16 puts greater development pressure on Seaton, as the Pickering growth management study indicates a

maximum of 30,000 people could possibly reside in Seaton without damaging the environment and approximately the same number on the agricultural land. This would allow for the protection of all sensitive land in Seaton, and agricultural lands would be preserved.

The province appears to be in conflict as both the landowner wanting to develop the lands and as the public trustee of the land's environmental assets.

At the present time, independent EAs are being conducted all around Seaton and the agricultural preserve; examples are Highway 407, the York-Durham sewage pipeline and the federally owned airport lands. All the land around it is going through an independent EA. What is the point of conducting these assessments if the provincial government ignores the Seaton lands, which are without question the largest extent of environmentally sensitive lands in Pickering?

Four recommendations to the province, if I may: The province must start acting like the public's trustee for the environment in Seaton; the province must start talking openly, honestly and directly with Pickering residents about the proper protection of the environment in Seaton; the province, as the proponent, must bump up the class EA on the land swap deal to a proper individual EA, addressing the future of Seaton; and the province must defer Bill 16 until the future of north Pickering is resolved.

Anything less confirms that the province is playing politics with our scarce environmental assets and ignoring its own legislation. The province should set an example of the smart growth principles it claims to follow.

Signed, David Steele.

Here I have 2,500 signatures agreeing with what I stated in here, and they were collected in five weeks. I could get 10,000, but I don't think it would make much difference.

Thank you, Mr. Chairman.

The Chair: Thank you for coming in today. We should have time for just one question. Mr. Oraziatti, that is yours, if you wish.

Mr. Oraziatti: No, thank you, Chair. We have no questions.

The Chair: Mr. Miller?

Mr. Miller: Certainly. In terms of the bill this committee is looking at, Bill 16, which I gather doesn't deal with the lands that you're concerned about, the Seaton lands, how do you feel about Bill 16? Are you in favour of it? Do you support it or not support it?

Mr. Steele: I am with the majority of the people of Pickering, not the minority of the people in Pickering—went through the Pickering Growth Management Study, where we conducted a study of the old area for growth in Pickering, and the environment was to be protected first. My real concerns are—and it will happen—that if we don't develop Seaton in a sustainable manner, we will lose 35 species of fish, we will lose 111 wetlands etc.—40% woodlots, and it goes on.

With the Pickering Growth Management Study, we took all that into consideration. The University of

Toronto professors of hydrogeology and natural resources agreed that a maximum on Seaton could be maybe 30,000. We know that the agreement the province has with the developers for Seaton is somewhere around 60,000.

The Chair: Thank you very much for coming in today—

Mr. Steele: To answer your question, sir, if in a balance, east and west, we know you're protecting one half and destroying the rest. Thank you.

The Chair: Thank you for coming in today, Mr. Steele, and for taking the time to put together your presentation. We wish you a good weekend.

GREEN DOOR ALLIANCE

The Chair: The Green Door Alliance, Mr. Brian Buckles: Is he present? Welcome this afternoon. Please begin by stating your name clearly for the purposes of Hansard and proceed. You have 10 minutes to make your deputation. If you leave any time remaining, it will be divided among the parties for questions.

Mr. Brian Buckles: Yes, my name is Brian Buckles, and I'm speaking on behalf of the Green Door Alliance. We applaud this bill and make no recommendations for change, although I do like the suggestion made here about making it more—I wasn't aware that it could be revisited that easily. We'd like to briefly outline our past involvement with the question before you and then explain why we feel it is so essential that this act be passed.

Many Green Door members, including myself, have a history of involvement in the area as members of People or Planes before the GDA was incorporated in the early 1990s. I was looking the other day at an old People or Planes booklet from 1979 entitled *The Last Green Door*, which, among other things, called for preservation of these lands.

The GDA's first major publication was a 42-page document outlining a conceptual plan for the provincial and federal lands, which proposed selling the agricultural lands, including the preserve lands, with easements ensuring future protection.

When the province initially decided to sell these lands, we were dismayed and argued strenuously against Ontario Realty Corp.'s intention to sell the land at agricultural prices but do so without placing any restrictions on title to prevent the land from being bought at fire sale prices and flipped for development. Our organization proposed to the region that the region require that easements be placed on these lands as a condition of their approval of the ORC's lotting plan.

The region, and subsequently Pickering, bought into this approach. ORC initially opposed that condition and appealed to the OMB. The Green Door Alliance were parties in this OMB process that led to the 1999 memorandum of understanding between the region, the city of Pickering and the ORC, requiring easements be placed on this land, calling for the land to remain in agriculture or

natural uses in perpetuity. Although we were not signatories to that agreement, we signed off on the minutes of settlement on the understanding that the MOU permanently protected these preserve lands.

We were appalled when early this year Pickering hurriedly and unilaterally released the easements. Along with another signatory to the 1999 minutes of settlement, we applied to the OMB to review whether Pickering's release of the easements was in contempt of the settlement agreed to. The OMB declined to intervene, stating it was a matter for the courts, not the OMB.

Now I'd like to talk about the importance of passing Bill 16. We have long supported private stewardship and the use of easements. Many of our members, myself included, and members of our affiliated organization, the Durham Conservation Association, have donated easements on our own lands.

Pickering's action, as Minister Ramsay and others have indicated, has put into question the legal integrity and long-term validity of conservation easements. So the first important reason for taking action is to redress this situation.

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Secondly, some may argue that since the preserve is protected by the greenbelt plan, no further protection is required. However, given the immense windfall that would occur if this land were developed, coupled with Pickering's attitude, immense pressure would continue to be put on this and subsequent governments to change the greenbelt boundaries. To underline the amount of money involved here, the March 11 National Post had an article with the headliner, "Greenbelt Plan Will Cost Me \$240M Developer Says." Sylvio De Gasperis, the president of TAAC Group, the Post article reports, told them that the land "is now worth as little as \$5,000 an acre because it can only be used for agricultural purposes."

We obviously had strong disagreement with Pickering about urbanizing the preserve and about their unilateral release of the easements. However, even if one were to accept Pickering's position that the preserve should be developed and that they had the unilateral right to remove the easements at any time, their action was, in our judgment, appalling. Without greenbelt protection, which Pickering wanted removed, the only thing standing between the land worth \$5,000 an acre as agricultural land and hundreds of thousands per acre as developable land would have been the easements themselves. By releasing these easements, Pickering was effectively transferring the vast lion's share—and perhaps virtually all—of what had been a public asset potentially worth hundreds of millions of dollars from public to private hands.

Passing Bill 16 and reinstating the easements will increase public trust and provide reassurance to a cynical public that such a gigantic public rip-off will not occur. Without such reassurance, we are likely to get back into the situation that existed in the last round of elections: great amounts of private money being spent supporting preserve-development candidates who want greenbelt

boundaries changed and full-page ads week after week attacking those opposed.

Thirdly, the province is currently working with other stakeholders to develop a plan for both the Seaton and the ag preserve lands. As long as property owners and their backers feel there is any possibility of developing their land, most will feel it is not in their best interests to take and support actions which improve economic viability in the countryside. They will continue to do what has been done in the recent past: highlight all the problems of making near-urban agriculture viable, make no investment to improve the farms, and then argue the land isn't really class 1 anyway, and on and on.

The Duffins-Rouge Agricultural Preserve lands provide a terrific opportunity for the province, farmers and other stakeholders to examine different approaches to support farm viability, approaches that could not only have benefits on the preserve but that might, over time, benefit the broader farm community in Ontario. None of this will ever get off the ground without the certainty that passage of the Duffins-Rouge Agricultural Preserve Act will provide.

Fourthly and finally, many groups and individuals in Durham—and, for that matter, across the GTA—support a vision of a non-urbanized corridor from the lake to the moraine. The act ensures the preserve will form a permanent part of this corridor. When plans for Seaton are firmed up, a very major portion of those lands will also be added to this corridor.

Directly to the north, the federal government has committed to permanently protect 7,200 acres of the more than 18,000-acre federal airport holding as green space. These 7,200 acres are mostly on the moraine but also include a southern link. Even if an airport were built on these lands at some future point—and we still feel any such proposal is still wildly premature—all evidence points to the fact that far more land and a far broader link could be protected in the future, creating a larger and even more viable countryside that could better support necessary farm infrastructure and add, again, to the viability of the preserve and the creation of a more robust natural heritage corridor all the way up to the moraine.

We urge the province to take an active and critical interest in what is happening on the federal lands. It was the province who, by withdrawing infrastructure support, pulled the plug on the federal airport proposal in the 1970s, saving taxpayers billions of dollars.

In closing, we're delighted all parties support the current action. It was the NDP that created the preserve in the first place, Conservatives who signed an MOU calling for the lands to be retained in agriculture "in perpetuity," and Conservatives who approved the Crombie recommendations reaffirming this protection. It's been the Liberals who have stood up to Pickering and, with all-party support, are reinstating the easements and ensuring future protection.

Through Bill 16, the public will be reassured that the integrity of easements has been restored, that the public interest is not being squandered, that a vital step will be

taken in focusing efforts away from urbanization and toward the development of a viable farm and countryside economy, and that a critical first step in ensuring a permanent link between the lake and the moraine will have been taken.

Thanks again for the opportunity.

The Chair: Thank you very much for coming in. Your timing is impeccable. That concludes the time you have before us.

ROUGE PARK ALLIANCE

The Chair: The Rouge Park Alliance, Mr. Gordon Weeden. Mr. Weeden, welcome this afternoon. You have 10 minutes to present to us.

Mr. Gordon Weeden: My name is Gord Weeden. I am chair of the Rouge Park Alliance. Mr. Chair and committee, thank you for the opportunity to be here. There is material being handed out that I will be referring to in my presentation.

On behalf of Rouge Park and the Rouge Park Alliance, I would like to thank the standing committee on the Legislative Assembly for taking the time to hear our comments on Bill 16 itself, and our thoughts on some of the benefits that might be achieved for Rouge Park, the greenbelt and the taxpayers of the GTA by ensuring that strong representation of our agricultural heritage and revitalized natural links remain in the Duffins-Rouge area. I also want to thank the government and the Honourable David Ramsay for proposing and supporting this very important bill.

Rouge Park endorses the general thrust of Bill 16. Specifically, we emphasize that clear limits must be set on development in that area in order to protect nearby environmental resources and linkages, and to preserve the opportunity to nurture economically viable and sustainable agriculture. This is important not only in Pickering near Rouge Park but also throughout our greenbelt. The security of agricultural and environmental easements must be assured.

Rouge Park has been described as the largest natural environment park in an urban setting in North America. It presently includes about 10,000 acres in York and Durham regions and the city of Toronto. The intent is one day to have a continuous natural corridor connecting the Oak Ridges moraine to Lake Ontario in the Rouge River watershed, along with east-west connections with the Duffins Creek watershed. In addition to its natural heritage objectives, Rouge Park also protects cultural and agricultural heritage lands.

Rouge Park is in its infancy, but already performs important functions in the greenbelt area. The park was first envisioned in the 1980s, its management plan was prepared in 1994, and the park officially became a reality in 1995.

As mentioned before, all governments in power from the 1980s to the present have been strong supporters of Rouge Park. We're grateful for the consistent enthusiasm of all parties for the creation of this great public asset.

However, Rouge Park is not a provincial park, a national park, a conservation area nor a municipal park. It is a unique partnership park created by contributions of land, money and services by all levels of government, regional agencies and NGO support.

However, its planning documents lack a strong base in legislation or the provincial policy statement and are vulnerable to the Ontario Municipal Board.

Rouge Park fulfills important roles for the greenbelt in the heavily populated Toronto area. Its plans include developing major tracts of natural habitat, including interior forests where plants and animals sensitive to disturbance can flourish. Rouge Park will therefore act as a reservoir of biodiversity in the area and will support nearby greenbelt habitat areas that are smaller and less viable over the long term.

As well, Rouge Park is the best hope for an Oak Ridges moraine-Lake Ontario connection in the central greenbelt area, but it is as yet incomplete. A critical mass of public lands ensures that Rouge Park can successfully support the greater greenbelt concept.

In 2004, the Honourable David Ramsay announced the province was transferring another 1,400 hectares—3,500 acres—of land in York region, Pickering and Toronto for Rouge Park purposes. This is a welcome addition to the park and a great step forward.

Why is Rouge Park a good steward for these public lands? As noted on pages 8 and 9 of the presentation booklet that has been handed out, a recent study of the natural environment in Toronto found that the biggest forest patches, the largest meadow habitats, the majority of rare plants and animals are all found in Rouge Park. We need to accomplish a similar role throughout the watershed, particularly in newly urbanizing areas.

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Rouge Park has a number of comments and observations regarding Bill 16 and the Duffins-Rouge corridor. First, we feel it is vitally important to ensure the security of easements on properties, both agricultural and environmental. Planning for the future requires a variety of tools to maintain our agricultural heritage, along with a sustainable network of compatible environmental resources. If easements are treated as temporary measures to dispose of when expedient, it will be impossible to work with private landowners to achieve a variety of goals. For this reason, Rouge Park supports the intent of Bill 16.

However, as admirable as Bill 16 is, it applies only to the Duffins-Rouge Agricultural Preserve. Rouge Park feels it is important to pass this type of legislation on a broader basis to permanently protect both heritage and conservation easements, and preserve the intentions of donors of lands for these purposes to land trusts, conservation authorities and other worthy organizations.

The situation that developed in Pickering shows the shortcomings of what might be termed the American model, which relies on property instruments to create heritage and conservation protection. Counting on easements is essentially an inferior way of protecting

these important cultural, agricultural and environmental assets. Regulation by the province to protect values of provincial public interest, in conjunction with wise public ownership, is a much better way to achieve the goals such easements are intended to address. Essentially, there are no effective means to enforce easements and few, if any, resources are devoted to such investigation and enforcement.

As you may know, Rouge Park's management plans include protected agricultural heritage areas on public lands. We recognize that for farming to be viable and sustainable in the GTA, a number of factors must be addressed. Rouge Park is moving to ensure our farms are large enough to work profitably, have long-term leases that encourage investment by the farmer, and have environmental farm plans to ensure that agricultural and ecological portions of the park are good neighbours.

We recognize there are larger issues affecting the profitability of near-urban farms, and Rouge Park will work closely with agricultural groups, the Friends of the Greenbelt Foundation, the GTA agricultural action plan and others to investigate and implement alternatives to the conventional cash crop regime. The transition from cash crops to more sustainable alternatives will require energy, imagination, determination and financial support.

The opportunity offered by the passage of Bill 16 and the protection of these Pickering agricultural lands is an exciting opportunity for Ontario. The growing population of the Golden Horseshoe will provide an insatiable market for enjoyment of the natural and cultural products and values provided by our presently diminishing farmlands and natural ecosystems. The provision of a strong level of security of agricultural and environmental easements is vital at this time. We urge the province to make similar protection for easements apply across Ontario.

Rouge Park has been providing on-the-ground protection and restoration of these land uses for a decade. We welcome the opportunity to work with the Legislative Assembly and the Minister of Natural Resources to ensure long-term easements are sacred in this province.

The Chair: Thank you very much for coming in today. We should have time for perhaps one question.

Mr. Marchese: Mr. Weeden, we're doing clause-by-clause on Monday. That means that if people want to introduce any amendments to either strengthen or weaken it, they could. Do you have any suggestions on what you would like to see by way of improvements that pertain at least to this bill?

Mr. Weeden: I think in our presentation we suggested that the province should be expanding this to include protection or strengthening easements throughout the province, and that would be something—

Mr. Marchese: I understand. That will be way out of the scope of this bill.

Mr. Weeden: Other than that, I can't comment.

The Chair: Thank you for having come in today, Mr. Weeden, and for your deputation here.

ROUGE DUFFINS GREENSPACE COALITION

The Chair: Rouge Duffins Greenspace Coalition, please. Welcome this afternoon. You have 10 minutes to make your deputation before us. Please begin by stating your name clearly for Hansard. If there is any time remaining after you have made your deputation, we'll divide it among the parties for questions. Proceed at your pleasure.

Mr. Jim Robb: Thank you, Mr. Chairman. My name is Jim Robb. I'm a volunteer with the Rouge Duffins Greenspace Coalition. I also work with an organization called Friends of the Rouge Watershed. My colleague is Bonnie Littley. We'll be sharing our time.

The handout I've given you today summarizes some of the history of the Duffins-Rouge Agricultural Preserve. Shortly after the Davis government expropriated the land in Pickering and Markham in anticipation of a federal airport, this land was designated for continued agricultural uses and agricultural preserve. Every government since then has reiterated and built upon that designation. The Bob Rae government designated it formally as an agricultural preserve. Dalton McGuinty's government has included it in the greenbelt and protected it for agricultural uses. So there's tripartite support for the permanent protection of this land. I've handed out something that goes through the summary of that history.

You have the Liberal platform and Premier McGuinty's promise that all the lands in the Duffins-Rouge Agricultural Preserve will be kept forever as farmland.

You have Minister Young's zoning order of April 21, 2003, in which he stated that the government sold the land to farmers at agricultural prices, and they expected it to stay agricultural. The Honourable Janet Ecker worked hard to have that continue.

You have the Honourable David Crombie, who reviewed this issue with a panel of notable experts and people in public service and academia, and they also recommended that it stay in perpetuity.

You have the actual easements that were put on the land by a multi-party agreement between the province, the region, the municipality and the Green Door Alliance, which say that the land will stay in perpetuity.

You have the Durham region planning staff report, which recommended that this land in the official plan should stay in farmland and that this was consistent with the Honourable David Crombie's recommendation.

The town of Markham has taken steps on their side of the ag preserve, because the ag preserve actually extends from the Little Rouge River over to the West Duffins, so it sort of straddles the Markham-Pickering boundary.

You have the Rouge Park Alliance, which appeared before you.

You have a study done by the Ministry of Natural Resources, called the Rouge-Duffins Draft Natural Heritage System, in which they said, "The significance of the Duffins-Rouge Agricultural Preserve, in providing linkages between the Rouge River and Duffins Creek

watersheds for the majority of fauna in the study area, should not be minimized.... [E]very effort should be made to leave the agricultural preserve intact."

You have the 1993 declaration, you have the 1975 Davis government declaration and you have a number of individuals and organizations such as Ontario Nature, the World Wildlife Fund and many others that have worked on it.

On the back is the map, the context of this planning area. This land is ecologically and farming sensitive, because it is tableland between the Little Rouge River and the West Duffins and Seaton Trail. So it's important land to protect.

What would happen if you don't protect it? Basically, there are a few skeletons in the closet on this particular file, and we don't need to go into them in detail here. But suffice it to say the land was sold for \$4,000 an acre, and if it becomes developable land, private interests will have taken taxpayer land at \$4,000 an acre and converted it into private land worth \$150,000 an acre. If you do the math, it works out to a \$300-million to \$500-million loss to the taxpayer.

We commend what you're doing today in Bill 16. We think it's the appropriate thing to do. I'll let my colleague address other issues.

Ms. Bonnie Littley: I want to make a few more comments in regard to some of the other statements; Jim came late and missed a few things.

In addition to some of the things Brian Buckles from the Green Door Alliance was talking about—the link from the moraine to the lake and the importance of that—the idea of the preserve also is to uphold the future resource for local food. If you look at the map, it's next to the largest urban market in Canada, so I think the potential for farming/food/urban agriculture is huge. An organic veggie operation can run on as little as two to 15 acres. You don't need a 200-acre farm to do those kinds of operations or agri-tourism or other very viable businesses. The location is absolutely ideal. This process will provide those assurances, and that permanency will give the security needed for investors to come in and be able to set up shop and not feel they are going to have subdivisions beside them. They'll be able to make those long-term commitments.

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The problem with the growth management study of Pickering, as much as we are concerned about the Seaton lands as well—the growth management study plan and the province's plan for Seaton are very similar—is that the city's plan was also going to develop 1,000 acres of the agricultural preserve. We were very much against that.

We support Bill 16 absolutely and positively; in fact, I'm ecstatic. Actually, I didn't want to copy all these letters; these are over the last five years—petitions, letters and statements to council, to Pickering, to the province, to the greenbelt and to this process from individual citizens, community groups and environmental groups. I think I sent across the list of the current com-

munity and environmental groups. These are individual citizens, mostly.

Mr. Marchese: How many people are we talking about?

Ms. Litley: I have no idea, really.

Mr. Marchese: Guess.

Ms. Litley: Thousands over the last five years, and these are only letters that have come through our Web site or our e-mail directly or at an event we've had.

The pumpkins at the Queen's Park event were grown at Wittamore's Farm, and it is on the Markham side of the agricultural preserve. We were also part of that event with Environmental Defence.

I'd like to add too that no one's property rights have been taken away. This issue goes around and around in circles, but at the end of the day, it comes back to the fact that that land was sold to people with an agricultural easement in perpetuity, knowingly, and they had a choice whether to buy it or not.

We absolutely support this bill. Ontario Nature has stepped forward, because what has happened here is threatening conservation easements everywhere. We're in line with Ontario Nature; Ontario Farmland Trust has come forward, Ontario Land Trust Alliance. Elbert van Donkersgoed of the Christian Farmers Federation as well has—

The Chair: Just to advise you, you have about two minutes remaining.

Ms. Litley: OK. I'll let you go ahead and ask any questions, if you'd like.

Mr. Robb: If I could just make one more point: I haven't had the chance to talk to a lawyer about the particular bill and how it's worded clause-by-clause. There is one small thing that strikes me that may improve it, and that is to include the ability for it to have agricultural and conservation uses. I think that's probably included within the definition of what agricultural land is, such as tree farms or growing sugar maple bushes and those kinds of things. But the idea of agricultural and conservation lands—I believe the Ministry of Natural Resources would like to utilize some of those lands to build some natural heritage linkages between the west Duffins and the Rouge Valley, and to create less-segmented wildlife corridors to improve the biodiversity of the area. There is that concern, but in general I think the bill is achieving the purpose we want, which is protection in perpetuity for that farmland and that landscape.

Ms. Litley: And also support the public hearings if it came across, instead of just the minister.

The Chair: That does conclude your time before us today. Thank you for coming in and for your deputation.

ENVIRONMENTAL DEFENCE

The Chair: Environmental Defence: Is Mr. Rick Smith in the room, please? He is. Welcome, Mr. Smith. You have 10 minutes to make your deputation before us. Kindly begin by identifying yourself clearly for Hansard,

and proceed. If you leave any time, it will be divided among the parties for questions.

Mr. Rick Smith: Thank you very much. My name is Rick Smith. I'm executive director of Environmental Defence. My presentation is going to be exactly as brief as I hope your consideration of this bill is. Frankly, it's our hope that this bill is a bit of a bonding experience among all three parties here, the reason being that—

Mr. Marchese: We do that all the time.

Mr. Smith: Is that right? OK.

This bill builds on the legacy of 30 years of consistent policy enacted by Ontario governments of all political stripes. As such, it's our fondest wish to see this bill adopted unanimously by the Legislature, with some of the amendments that we outline here included.

In my brief, I've outlined some of the chronology that has led us to this point. I'm sure you've heard a lot of this today, so I won't belabour it now. Suffice it to say that, beginning in 1972 when these lands were announced as a proposed location for the international airport and associated city in north Pickering, all the way up to the late 1990s when these easements were applied after the sale of the lands, government policy from Progressive Conservative, Liberal and New Democratic Party governments has been consistent all along the line.

Our interest in this really began over the last year when Environmental Defence and Ontario Nature joined with the Green Door Alliance and Sandy Rider to appeal the city of Pickering's unilateral removal of the easements to the OMB. As you've likely already heard today, in a letter dated June 29, 2005, the OMB rejected our appeal and advised our organizations to seek redress through the courts. So suffice it to say that this bill in front of you today is necessary and is really the best mechanism at hand to deal with this long-standing problem.

The bill is needed for two reasons. The first reason is that the Legislature needs to protect the public interest in the specific case of the agricultural preserve. As has been mentioned, because real estate speculators bought the agricultural preserve lands, which were supposedly protected by permanent agricultural easements, for about \$4,000 an acre, they stand to reap a windfall profit and resale prices in excess of \$100,000 an acre, if they're successful in securing the release of these easements and the urbanization of the preserve that the town of Pickering, if left to its own devices, will clearly grant them.

One of the speculators in question—in a very forthright and candid manner, I should say—in March of this year admitted to the National Post that he alone stands to make \$240 million if the easements are lifted. So there's a real issue here, specific to the preserve, related to the protection of the public interest.

The second reason this legislation is needed is that, frankly, it sets a precedent for easements right across this province. I know many of you here are involved in other conservation issues, and easements are held by a wide variety of organizations across this province: conser-

vation authorities, naturalist groups, land trusts, governments of different levels, many other organizations. If it turns out that easements are ephemeral—if they're not worth the paper they're printed on—then this easement tool used for conservation, used by anglers and hunters groups, used by a wide range of organizations across the province, will be critically undermined.

So we would like to suggest, as I mentioned at the outset, that this bill be adopted unanimously by all parties, with two amendments made prior to its adoption:

(1) We would suggest that a clause be included in the act to make explicit that, in the event the government decides to re-expropriate the preserve lands in the future, it can do so at the same price the government sold the lands for originally, perhaps with an escalator to account for inflation.

(2) We would suggest that the area stipulated by the act to be protected by the easements should also include the original Markham side of the agricultural preserve. If you dig into the history of this preserve, there was a point when there were actually lands incorporated with it on the Markham side. We would suggest that that area be incorporated into the area dealt with by this act.

Perhaps I'll leave it there, and I'd be happy to take any of your questions.

1650

The Chair: Thank you very much. We should have time for one question, and two if they're brief, from each caucus. This would begin with Mr. Orazietti.

Mr. Orazietti: Thank you, Chair. Bear with me here. First of all, Mr. Smith, thank you for being here today to make your presentation. What would you say to people who come before the committee with respect to this bill who would imply that they should be able to develop these lands? You made some comments about the history of these lands. Do you care to elaborate on that for us?

Mr. Smith: Sure. I would say that these folks bought the land with easements attached that were clearly stipulated as being there in perpetuity, so there shouldn't be any surprises. They went into this with their eyes open. These were crown lands sold with specific conditions attached. Frankly, I don't give that argument much credibility.

Mr. Orazietti: Thank you, Mr. Smith.

Mr. Miller: Thank you for your presentation. I know you've asked that this be unanimous. While you were speaking, or just prior to your speaking, I was watching on the monitor the current member for Pickering, who was the former mayor, speaking in the Legislature on the opposition day, which is to do with the economy. I know he has been fairly vocal in support of development. I would assume that he's opposed to this bill, and he's currently a member of the government. In fact, I'm surprised he's not here taking part in the committee today to make his views known.

My question is, knowing the position of the current member, are you concerned with Mr. Arthurs's position?

Mr. Smith: I've not spoken with him about this, so I'm not going to prejudice his position. I hold out hope. I'm an optimistic fellow.

Mr. Miller: Your first recommendation: If the land were to be re-expropriated, basically the value would just go up with inflation. Is that what you're saying?

Mr. Smith: Yes.

Mr. Marchese: Mr. Smith, I just wanted to thank you and Bonnie and Jim, and so many others—I don't want to go through the whole list—who presented, because bills like this don't happen naturally. They usually happen because there's a great deal of pressure applied to governments. We asked them quite a number of questions over the last two years to urge them to do this. I just wanted to thank people for applying the pressure, because governments only respond to public pressure and nothing else. So I think that has been a success.

The city of Pickering and its politicians obviously understood the language and understood the agreement, because "in perpetuity" means what it means. What do you think caused the local politicians not to understand that, or misunderstand it, or reinterpret or misinterpret it? I'm sure you follow the politics. What do you think happened?

Mr. Smith: Again, I wasn't a fly on the wall, so—

Mr. Marchese: And that's OK.

Mr. Smith: —I don't want to surmise, but very clearly there are enormous pressures to develop these lands. They're very close to Toronto. Those pressures were there when the Progressive Conservative government sold these lands. Those pressures were there when the NDP government dealt with this issue. Those pressures are still there today. All parties represented here are united by feeling that pressure.

Mr. Marchese: Thank you. Fine.

The Chair: Thank you very much, Mr. Smith, for your deputation and for your time in coming here today.

CITY OF PICKERING

The Chair: The city of Pickering: Mr. John Reble. Welcome this afternoon.

Mr. John Reble: I'm sure many here think I'm a rebel, but it's actually Reble.

The Chair: I stand corrected.

Mr. Reble: That's quite all right. Even my wife calls me that sometimes.

The Chair: You have 10 minutes before us today. Please begin by stating your name correctly for the purposes of Hansard. If you leave any time remaining, we'll divide it among the parties for questions. The floor is yours; please proceed.

Mr. Reble: Thank you, Mr. Chair. My name is John Reble. Today, I represent the city of Pickering. The city is opposed to the passage of Bill 16. I will be brief.

A previous speaker said that this might be one of the most controlled pieces of land in the country, and I would not disagree. It is the city of Pickering's submission that Bill 16 is unnecessary and redundant, unless of course the province has no confidence in its own actions. This land is subject to two ministerial zoning orders, one which came in under the Planning Act and the other

under the Ontario Planning and Development Act. These two ministerial zoning orders were put in by the previous government on an Easter Monday about two and a half years ago. It is also the subject of the greenbelt legislation. Certainly, all of these legislative devices can determine how this land is going to be developed. Secondly, under this legislation the city of Pickering would still hold the easements. Nothing has changed, it seems, except to ensure that the city understands who has the power. The Minister of Natural Resources must consent to the lifting of the easements.

What this bill has done is to drive a stake in the heart of municipal autonomy and the ability of a municipality to plan its own jurisdiction, which I thought was enshrined in the Planning Act. This has been stripped away by the provincial government not only on the agricultural assembly lands, but also on the Seaton lands. If ever the province wants to ensure that municipalities are aware that they're the children of the province, it is saying and doing so with Bill 16. I note that the City of Toronto Act gives far more power to a local municipality if that is a municipality with clout. Clearly, Pickering does not have it.

I will say that the city does not oppose those amendments to the Conservation Land Act that are proposed in this legislation. These amendments to the Conservation Land Act, of course, are not necessary to be in this bill; they could have been stand-alone. But these amendments will clarify the legislation and overcome difficulties which the city of Pickering experienced in defending litigation brought by parties seeking a court order to overturn the easements.

Those are my submissions.

The Chair: Thank you very much. We should have time for two questions or so from each party, beginning with Mr. Miller.

Mr. Miller: You state that this bill is unnecessary and redundant, and yet from what I understand from the presentation the Ministry of Natural Resources made at the beginning of this afternoon—part of their presentation was that on March 1, 2005, the city of Pickering unilaterally released agricultural easements on basically 2,000 of 3,000—

Mr. Reble: That was their right to do, sir.

Mr. Miller:—on two thirds of the amount of land. I understand that the reason the easements were there was to keep it as agricultural land in perpetuity. So if the idea is to keep it as agricultural land in perpetuity and the city is changing that, I think that's the purpose of this bill—

Mr. Reble: Sir, the municipality has studied this. In fact, this area has probably been studied to death. The municipality had a growth management study which very clearly pointed out, as previous speakers have indicated, that these lands are not economic for agricultural purposes. The city of Pickering was legally given the option when the easements were drawn up and resolved, and a signatory to the memorandum of understanding was the ORC, the Ontario Realty Corp.

"In perpetuity" is a legal phrase, but easements have a dominant and a subservient party. Pickering, in this case,

had the clear legal authority, which, as I say, was enshrined in the memorandum of understanding and in the wording of the easements—and as I say, the ORC was a party to that—to be able to lift those. If that were not the case, then I'm sure that the province, given what the province has done, would have challenged the actions of the city of Pickering in court.

1700

Mr. Marchese: Mr. Reble, how could a government sign an agreement whose language says that we will preserve these lands for agricultural purposes in perpetuity, and you say that Pickering has the legal authority, and it was somehow enshrined in the agreement, that Pickering could indeed lift those easements? Why would the province sign an agreement that says "in perpetuity" and not understand the implications of what you're speaking of?

Mr. Reble: Sir, I believe the city of Pickering totally understood the implications and I'm sure the province understood the implications, which is perhaps why the province has brought in this bill, which I still say is redundant.

The matter has been studied. The Planning Act gives to the municipality the authority to look at land use and regulate land use within its jurisdiction. The province has made a scapegoat of the city of Pickering, both with respect to Seaton and also with respect to the agricultural assembly. Clearly, the province wants to see a particular end and they're not willing to trust the elected local representatives to carry it out.

Mr. Marchese: I want to point out that people like me believe, in many areas, that provinces ought to have an override in terms of protecting the larger provincial interest. We understood the 1999 agreement as to preserve those lands for agricultural purposes in perpetuity. That is why New Democrats support the bill and would like to strengthen it, in fact, rather than weakening it.

The province has an important role to play in these areas, so we can't simply say, "We, the municipality, ought to have the jurisdiction to do what we want, and whatever agreement we signed is irrelevant," or simply say, "The province clearly knew or misunderstood its own powers or misunderstood what it was writing in its memorandum." It's incredible to me to believe that you're saying, "The province knew that the city in fact had the power to lift that easement at any time." It's incredible.

Mr. Reble: That's exactly what I'm saying, sir. That's precisely what I'm saying.

The Chair: Thank you. I have to cut that question off. Mr. Orazietti?

Mr. Orazietti: I have just a couple of quick questions, if I can. Would it be fair to say that the city of Pickering was not prepared to live up to the original agreement in protecting the lands in perpetuity?

Mr. Reble: No, I would not say that. The city of Pickering instituted a growth management study through an independent planning consultant. Extensive public consultation was held and conclusions were reached that

this land was no longer appropriate for agricultural preservation and that development was appropriate. This was done through a very open and public planning process.

Mr. Oraziotti: History has shown the intent of the provincial government in terms of protecting this. There was an agreement reached with the city of Pickering. As to your comment about this bill being redundant, if you feel it's redundant, why is it necessary to oppose the bill?

Mr. Reble: I've been very brief, sir. I've said that I thought it was redundant. I'm here to state the position of the city of Pickering. I don't expect the Legislature to change its mind. It was very, very clear. The province could have taken the city of Pickering to court if it felt that Pickering didn't have the upper hand on those easements, to resolve the easement situation as it saw fit. That's the nature of our legal process.

The Chair: Thank you very much for your deputation here today.

The Duffin Capital Corp., please, Mr. Mark Flowers. Duffin Capital Corp., Mr. Mark Flowers? Going once. OK.

ONTARIO NATURE

The Chair: Ontario Nature—Federation of Ontario Naturalists, Linda Pim.

Welcome this afternoon. You have 10 minutes before us. If you don't use all of your time, we'll divide it among the parties for questions. Please begin by identifying yourselves clearly for the purposes of Hansard and then proceed.

Ms. Linda Pim: Good afternoon, Mr. Chair and members of the committee. Thank you for the opportunity to appear before you in support of Bill 16. My name is Linda Pim, and with me to my left is our stewardship coordinator, April Mathes. I'll make our presentation, and we can both answer questions you may have.

Ontario Nature, or the Federation of Ontario Naturalists, as we have been known in the past, has a 75-year history of activity in conserving nature in Ontario. We represent the interests of over 140 member organizations across the province and over 25,000 individual members. We have a long history of involvement in land use planning matters including, most recently, our work on and support of the new greenbelt. We also practise conservation through our system of nature reserves, comprising 21 owned properties and two conservation easements totalling over 5,000 acres, the largest privately owned nature reserve system in Ontario. As part of our nature reserves work, we are active in the Ontario Land Trust Alliance and in promoting conservation easements as one of many tools available for securing land for conservation purposes.

In April of this year, Ontario Nature commissioned a legal opinion by the pre-eminent environmental lawyer David Estrin, regarding the action of the city of Pickering in terminating the conservation easements within the Duffins-Rouge Agricultural Preserve in Pickering. This

legal opinion remains the only one publicly available on this issue. Mr. Estrin made it clear that the city of Pickering had no legal right to terminate the easements, for a number of reasons relating to several provincial statutes. We were pleased, through the legal opinion, to be able to contribute positively to the discussion emanating from Pickering's termination of the Duffins-Rouge easements. We have the legal opinion here if any committee members wish to read it.

Ontario Nature took an active role in the Duffins-Rouge easements matter because we were concerned for the protection of the preserve so that it may continue to be used only for agricultural and conservation purposes. However, we were also concerned that Pickering's action in terminating the easements could call into question the sanctity of easements as a tool for long-term land protection, a tool that hundreds of dedicated landowners across Ontario have put faith in to save their lands for perpetuity.

Three successive provincial governments of all three political parties have been committed to permanent protection of the Duffins-Rouge Agricultural Preserve. Ontario Nature commends the current government for being prepared to walk the talk. In other words, when Pickering did not act upon the warning from ministers of the crown that the government was prepared to legislate the easements back into existence, the government did indeed introduce this legislation.

Bill 16 is important because it clarifies that the easements to protect agricultural lands in the Duffins-Rouge Agricultural Preserve are meant to be in place "in perpetuity," not for only the six years that they existed on the city of Pickering's watch. We support the easements as an added layer of protection over and above the greenbelt designation because easements last in perpetuity, which is commonly accepted to mean 999 years. While we would all like the greenbelt plan to last that long, it, like all legislated land use protections, will always be vulnerable to change by a future government that may not be as committed to conservation as the current one is.

Ontario Nature does not see the need for amendments to that portion of Bill 16 that pertains specifically to the Duffins-Rouge Agricultural Preserve, and we encourage the Legislature to give the bill prompt passage, preferably before the holiday break. We do, however, have some recommendations for what would be considered minor amendments to that part of the bill that pertains to the Conservation Land Act and its easement provisions that apply across Ontario.

Ontario Nature has canvassed opinion broadly from the conservation community on this portion of Bill 16, collaborating with other organizations that have a direct interest and involvement in conservation easements. We speak today on behalf of ourselves and also on behalf of the Ontario Land Trust Alliance, a non-profit organization representing over 30 community-level and provincial land trusts, with a mandate to encourage the land trust movement throughout Ontario.

We would like to congratulate the government on its move to include in Bill 16 specific protection for agricultural lands under the Conservation Land Act. We would like to suggest a small set of fairly minor amendments that would serve to further strengthen and streamline the Conservation Land Act.

It is essential that the term “amend” or “amendment” be defined so as to determine what types of amendments will require notice or approval by the minister. Further, as proposed in new subsection 3(4.2), the act addresses only amendments by landowners, not by conservation bodies, such as Ontario Nature, as holders of easements. This should be corrected as there may be situations or easement documents that allow for amendments by the easement holder.

1710

Perhaps the most important change we propose is in proposed new subsections 3(4.2) and 3(4.3) of the act. These subsections require “consent” of the minister for all amendments and release of easements or covenants. We propose that this wording be changed to “notice” to the minister, as is provided for in proposed subsection 3(4.4). Notice to the crown would give the Ministry of Natural Resources sufficient opportunity to intervene in appropriate cases.

Our concern with the current wording that requires consent is the unnecessary complications and delays that could result in each and every amendment or release requiring review and consent by the minister. MNR has numerous programs to administer as is, and adding review of conservation easements would require substantial resources. There is little doubt this would take resources away from other essential programs such as the conservation land or managed forest tax incentive programs.

We would suggest there are many cases of amendments or releases that would not require ministerial approval. In many cases, amendments are brought forward to improve old easements that were written early in the land trust movement, and we have since learned how to write better documents. Requiring ministerial approval would bog down the progress toward stronger and more enforceable easement documents. Additionally, there are cases where conservation bodies may be in a position to take title to a property on which they currently hold a conservation easement. In this case, a release of the easement would be needed, but would clearly not require the minister to review the case.

By changing the wording from “consent” to “give notice,” the minister would have the opportunity to intervene where necessary as well as be informed on the process, but would not be required to undertake full review and sign off on all potential amendments and releases. Further to the “give notice” wording, it is important to include a deemed approval if there is no response from the minister within 30 days. Allowing a deemed approval after 30 days will minimize unnecessary delays that can often jeopardize important land conservation initiatives.

Complementary to this, a regulation-making power could be added to subsection 3(11) of the Conservation Land Act that would allow a regulation to define amendments, releases and other terms used in the act as well as to specify the tests, documents and processes involved, any exemptions, and a deemed approval if there is no response from the minister within 30 days. This could be a straightforward way to address our concerns identified under proposed subsections (4.1), (4.2) and (4.3) of section 3 of the act and allow further consultations on the details of the regulation in the near future.

Lastly, rather than delay Bill 16 itself, which, as I say, we strongly support, we ask for a commitment from the government to bring a comprehensive package of conservation easement and related law reforms forward within the next three months. These are overdue and would further increase the effectiveness and efficiency of using this important conservation tool in the implementation of many of this government’s conservation initiatives.

Thank you for the opportunity to present to you today.

The Chair: Thank you for coming in today. We should have time for perhaps one brief question, and that would be Mr. Marchese’s in the rotation.

Mr. Marchese: Good luck on your last recommendation. It should take at least another seven years to get that going.

Ms. Pim: I have no comment.

Mr. Marchese: Ms. Pim, you heard the legal opinion from Mr. Reble, who obviously indicated that they had the legal right, and Pickering understood this and the ministry understood it, to ease or lift the easements. Do you have a view on that?

Ms. Pim: As I mentioned, I am not going to read the 26-page legal opinion to you in two minutes. We commissioned the opinion, which outlined basically a number of ways in which Pickering had no legal right to terminate the easements. I’m happy to provide you with a copy of the opinion. But the bottom line is, the opinion we sought went through the whole process and determined that, in fact, Pickering did not have the right to do what it did.

Mr. Marchese: Thank you.

The Chair: Mr. McMeekin.

Mr. McMeekin: I’d like to ensure that that legal opinion is submitted—

Ms. Pim: I have a copy for each party. I’ll leave them with the clerk.

The Chair: The clerk will collect that from you. He’ll return the original, if it matters, and we’ll distribute it to the entire committee.

That concludes the time available for you. Thank you very much for your time and your deputation today.

DUFFIN CAPITAL CORP.

The Chair: The Duffin Capital Corp., Mr. Mark Flowers.

Mr. Mark Flowers: I have some material to distribute.

The Chair: The clerk will take your material and distribute it. Thank you for bringing it.

Mr. Flowers: It's basically some correspondence I'll be referring to.

The Chair: Mr. Flowers, welcome today. You will have 10 minutes to present to us. If you leave any time remaining, it will be divided among the parties for questions.

Mr. Flowers: Good afternoon, Mr. Chairman and members of the committee. My name is Mark Flowers. I'm a lawyer with Davies Howe Partners and I represent Duffin Capital Corp., which is a landowner within the Cherrywood area of the city of Pickering, an area also known as the Duffins-Rouge Agricultural Preserve.

Regrettably, Bill 16 is yet another example of what is becoming a very disturbing trend in provincial legislation that deals with land use matters. We again are faced with proposed legislation that is nothing less than oppressive, heavy-handed and completely disrespectful of private property rights. More than that, however, this legislation is premised on assertions that are clearly inaccurate, and it appears the bill has been motivated by reasons other than the public interest. My submissions this afternoon, therefore, will fall into two primary areas. First, I'm going to review very briefly and provide comments on the key provisions within the draft legislation that are of particular concern. Second, I will demonstrate the inaccurate premise upon which this legislation has been introduced.

Starting with the legislation itself, section 2 purports to rescind the city of Pickering's release of the easements that have been registered against various properties within the Pickering portion of the preserve. That represents a completely unwarranted interference with contractual rights, particularly in light of its intended retroactive effect. Not only is the provision disrespectful of private property rights and contractual rights, it's also disrespectful, I would submit, of the province's judicial system, in that it purports to supersede any court order to the contrary.

If we turn to section 3 of the proposed legislation, the so-called "limitations on remedies" provision, it's one that's becoming increasingly common in land use related legislation. That, I would submit, is frightening. We're starting to see this section popping up very often, and in fact one example I would note in that section is the reference to the Expropriations Act. The Expropriations Act recognizes that the province has in some cases the right to take away or interfere with private property rights, but a fundamental protection in that legislation is the right, of course, of the property owner to receive fair compensation. The act purports to eliminate, however, the right to claim compensation under the Expropriations Act, and that, I submit, is entirely unacceptable.

We have seen this provision before, and I recall that a similar provision exists in the Oak Ridges Moraine Conservation Act, which applies to lands on the Oak Ridges moraine. But notwithstanding the provisions in the Oak Ridges moraine legislation, I'm sure this committee is

well aware that there are certain development interests on the Oak Ridges moraine, both in Richmond Hill and in Uxbridge, that are set to be compensated with even more lands in Seaton. Seaton, of course, is that area that is highly environmentally sensitive. It's predominantly provincially owned land, and it's in Pickering immediately adjacent to the Duffins-Rouge Agricultural Preserve. I find that a very interesting coincidence.

Finally, section 4 of the bill proposes to amend the Conservation Land Act to allow conservation easement to be used for the "preservation or protection of land for agricultural purposes." The fact that this amendment is even proposed confirms, I would submit, our position that the agricultural easements in Pickering were never in fact authorized by that legislation. That should have been obvious, because although some may see agricultural land being equivalent to natural areas or conservation land, that is a myth. Unlike some conservation land that possesses a significant ecological function or contains natural heritage characteristics, agricultural operations by their nature often strip the land of all its natural features, and it includes the extensive use of pesticides, chemical fertilizers and so forth, which we know is damaging to the natural environment.

Section 4 also proposes to give the Minister of Natural Resources power over the release of conservation easements. If that's what the province wants to do on a go-forward, so be it, but there's no justification for attempting to impose that requirement on a retroactive basis, particularly here where the city was given the sole authority to hold and therefore, I would submit, release the agricultural easements.

Turning, then, to the second area of my submissions, it's important to note that the bases upon which the bill has been proposed are in fact false. In support of the bill, the province has—

Interruption.

The Chair: Just as a point of order, would everyone here who has a cell phone or other electronic device that makes noise please either turn it off or mute it. Thank you.

Sorry, Mr. Flowers. Please continue.

1720

Mr. Flowers: In support of the bill, the province has suggested that the preserve lands are "high-quality farmlands" and that the lands were intended to be agricultural forever. There's no truth to either of those statements; in fact, the evidence clearly demonstrates otherwise. Far from being high-quality farmlands, our client's agricultural consultant has characterized the lands as being a low-priority agricultural area. Through its recent growth management study, the city of Pickering has retained agricultural experts who arrived at a similar conclusion regarding the agricultural viability of the Cherrywood lands.

But you don't need to believe our experts or the experts for the city. You can simply listen to what the Ontario Federation of Agriculture had to say about the preserve lands in a June 22, 2004, letter to Maria Van

Bommel. I understand that the Ontario Federation of Agriculture may have appeared before this committee earlier. I don't know if you are aware of this letter; you'll find it at page 2 of the submission. If you're already familiar with it, I won't go on with it.

Given what appears to be overwhelming evidence to the contrary, my first request of this committee is that it produce for public review the evidence the province is relying on to support its assertion that the agricultural preserve does constitute high-quality farmlands.

Regarding the assertion that the lands were intended to remain agricultural forever, this may be what the province would like to believe, but it's an assertion that does nothing more than mislead the public. While the province is now quick to want to take credit for taking steps to protect these lands from urban development, it ignores the fact that the preserve lands were part of a much larger land holding that was expropriated by the province in the 1970s for the creation of a proposed urban community of some 200,000 to 250,000 people. Imagine that the province was actually considering urban development on lands that it now considers to be high-quality farmland.

Secondly, the province erroneously suggests that the parties to the 1999 agreement all understood that with the imposition of the easements, the lands were to remain agricultural forever. In fact, the evidence shows that this was not the intention and that the easements were to be held solely by the city, which could then use them as a tool to control the timing of development and to capture value for the municipality.

Let's not forget that the Ontario Realty Corp., which sold much of the preserve lands under the tenant purchase program, reluctantly agreed to the easements and did so only at the urging of a number of parties, including an environmental group known as the Green Door Alliance. Their solicitor, Mr. Attridge, has some comments about the value of the easements for the city. You'll find excerpts from his submission at page 4. In particular, I draw your attention to page 6 of the handout, under the heading "Transfer of Value To Pickering"—again, this is the solicitor for Green Door Alliance writing for the city.

The Chair: You have about two minutes.

Mr. Flowers: He says, "Because municipally owned agricultural" easements "hold the rights to restrict development, they retain within them any future development values. In the agricultural assembly over time, this could be worth millions of dollars. Some communities have had to buy such agreements.... Why should Pickering let current purchasers receive this potential benefit, when it could be handed to the town by the province for free?"

"Landowners will have full knowledge of the agreement and will buy land at prices for agriculture. But, if landowners want to develop properties beyond agriculture, they can pay the town to modify or release the town's interest in the agreement. This means money in the town's pocket and enhanced control over development."

So clearly, he's recognizing that the easements did not mean agriculture forever.

Likewise, the ORC knew full well that the city, as the only holder of the easements, had, without restriction, the authority to amend or release them on their terms and the potential for urban development within the preserve was, in fact, a distinct possibility. You'll see that expressed in the letter beginning at page 7. This is a letter from Mr. Budd of the ORC to the tenants. I draw your attention to page 8, where he says, "Since the inception of the tenant purchase program, it has been recognized that land use planning is a matter almost entirely within the control of the town of Pickering and the regional municipality of Durham. With the town of Pickering being the custodian of the agricultural easement and the zoning and official plan designation as agricultural, we believe that it is essential that the community understand that notwithstanding the inevitable interest of developers in this area and the enshrined property rights of individuals to convey their property as they see fit, the future use of these lands will be determined by the town and the region in the zoning process and the commitment of the town of Pickering to maintain the agricultural easement."

It goes on to say at the end, "The long-term use of these lands rests with the community and their elected representatives at the municipal and regional level."

The Chair: That concludes the time we have available for you today. Thank you very much for your submission before the committee.

ALTONA FARMS

The Chair: Altona Farms, Mr. Ken Rovinelli. Is Mr. Rovinelli in? Welcome. If you've been here for longer than a few minutes, you'll know that we have 10 minutes for your submission. If you leave any time remaining, it will be divided among the parties for questions. Please begin by identifying yourself clearly for Hansard and proceed.

Mr. Ken Rovinelli: My name is Ken Rovinelli. Thank you, Mr. Chairman and members of the committee. There are probably going to be some repeats in this submission, having heard everyone speak and me being the last one.

This committee is being asked to weigh the concerns of many of the people here, while having in many ways only read one page of a long and complex book. What you see on that page is a situation where land called an agricultural preserve had easements taken off title. It's far more complex than that, as you've heard. There's a history that extends back to the early 1970s when the province expropriated these lands for a new urban community.

What we have before us now is a bill which forces two parties into an agreement that neither wishes to be a party to, in this case the city of Pickering and certain landowners in the agricultural lands affected by the easements.

When my clients bought the land in Cherrywood, they were aware of the agricultural easements. Through the due diligence process it became clear that the nature of

the easements was to control growth, and that “perpetuity” was the language used in the easements in the absence of any studies, applications or schedules that could have suggested a more appropriate time frame.

A lot has been said today about the province’s intention to preserve these lands, yet we found no evidence that the province undertook any economic assessments or area-specific LEER studies on the farmland to prove that the area could be sustained as an agricultural enclave. As well, over the 30 years the province owned the lands, they did not invest to improve the agricultural viability of the area, and as was mentioned, the record shows that they didn’t want agricultural easements on the land when they were in provincial ownership.

Contrary to proving that this was a high-priority agricultural area worthy of protection with agricultural easements, the province simply called it an agricultural preserve and sold off the lands. One can only imagine why they did this.

The province’s ultimate position on the future of the agricultural preserve seemed clearly stated in correspondence that was sent to tenants who were acquiring the lands and to the city of Pickering and the region of Durham. Mr. Flowers went through much of that quote. Ultimately, I think the last statement that “The long-term use of the lands rests with the community and their elected representatives at the municipal and regional levels” is quite telling, because now both of these levels of government have spoken. The city of Pickering, after conducting an extensive growth management study, approved an official plan amendment that proposed urban uses in Seaton and on the southeasterly portion of the agricultural preserve now called the Cherrywood community.

The region of Durham also spoke through a council resolution, which stated that:

“The Ministry of Public Infrastructure Renewal be requested to:

“(a) coordinate, through the authority of Municipal Affairs and Housing, an amendment to the boundary of the ‘protected countryside’ under the greenbelt plan to remove the lands in the Cherrywood community;

“(b) identify the Cherrywood community as a ‘designated growth area’ in the final growth plan for the greater Golden Horseshoe.”

They didn’t come by these conclusions and recommendations lightly. The approach taken through the city of Pickering’s growth management study was scientific, with input from professional consultants, the general public and special-interest groups. The proposal was for an environment-first approach to planning and included a substantial agricultural input. Ultimately, not all of the agricultural lands were recommended for urbanization, only the least viable and only sufficient in area to accommodate the long-standing growth needs of the city of Pickering.

1730

The agricultural lands proposed for growth are fractured by roads, hydro corridors, public utilities, woodlots and a fairly significant component of class 4 to class 7

agricultural lands. The area is segregated from other agricultural areas and sandwiched between existing urban neighbourhoods of the city of Pickering, the future Seaton community and the proposed federal airport. There are also three residential subdivisions within the agricultural lands which further complicate farming.

These lands do not possess any of the characteristics of a priority agricultural area, and several professional agricultural consultants, as well as a professor from the University of Guelph, are on record that these lands do not comprise a sustainable agricultural area.

What the area does have is a lot of infrastructure. There are five local roads and two regional roads on the lands proposed for growth, a huge sanitary sewer, the York-Durham sanitary sewer, water mains servicing the existing subdivisions, a water reservoir and a pumping station. The area also has transit at the south limit, and an interregional transit line is being proposed that would run through the middle of the area. This is not an agricultural preserve. In fact, the area proposed for urbanization, the area on which the easements were lifted, is probably one of the few areas in the GTA that meets all of the standards set for smart growth. It is beyond those involved with the planning of this area, save a small contingent, why the province refuses to acknowledge the full story.

It was suggested by the minister introducing the legislation that removing these easements is a threat to the entire greenbelt. Of the total 1.8 million acres within the greenbelt, only this small area of the city of Pickering, less than one tenth of 1% of the total area, has agricultural easements. It seems trivial to propose that reinstating these easements will do anything to or for the greenbelt.

We have no problems with the provisions in Bill 16 that would strengthen heritage and conservation easements, or agricultural easements, for that matter, but these easements should be justified first. A heritage easement would not be placed on a building, for example, that did not meet certain criteria, nor would conservation easements be placed on lands without meeting the proper scientific or program criteria. In the case of the proposed urban area of the Duffins-Rouge ag preserve, there has been no justification for these easements.

Removing the easements does not open the door for development on the agricultural preserve. However, by refusing to acknowledge this lack of justification and by reinstating the easements, the province is sending a signal that growth from smart growth candidate areas can be decanted to areas with higher-priority agricultural lands without justification.

I would ask that this committee recommend to the Legislature that section 2 be removed from Bill 16 in its entirety. Thank you.

The Chair: Thank you. That concludes the time available for your presentation. I thank you very much for having come in.

This concludes the presentations that we had scheduled on this bill, and these hearings are concluded.

The committee adjourned at 1735.

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Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

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Monday 12 December 2005

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Lundi 12 décembre 2005

Standing committee on the Legislative Assembly

Duffins Rouge Agricultural
Preserve Act, 2005

Comité permanent de l'Assemblée législative

Loi de 2005 sur la Réserve
agricole de Duffins-Rouge

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Monday 12 December 2005

Lundi 12 décembre 2005

*The committee met at 1005 in committee room 1.*DUFFINS ROUGE AGRICULTURAL
PRESERVE ACT, 2005LOI DE 2005 SUR LA RÉSERVE
AGRICOLE DE DUFFINS-ROUGE

Consideration of Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve / Projet de loi 16, Loi concernant la Réserve agricole de Duffins-Rouge.

The Chair (Mr. Bob Delaney): Good morning, ladies and gentlemen. Welcome to a brand new week. We are here to do clause-by-clause of Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve.

There have been no amendments tabled to the bill.

Are there any comments or questions on any section of the bill?

Seeing none, shall sections 1 through 6 carry? Carried.

Shall schedule 1 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 16 carry? Carried.

Shall I report the bill to the House? Agreed.

Shall I report it without amendments? Agreed.

Shall we adjourn?

Mr. Ernie Hardeman (Oxford): Not before coffee break.

The Chair: Shall we stretch this meeting out so that we can have coffee and a muffin?

OK. Motion to adjourn? Sorry it took so long.

The committee adjourned at 1007.

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Standing committee on the Legislative Assembly

Use of technology

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STANDING COMMITTEE ON
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L'ASSEMBLÉE LÉGISLATIVE

Thursday 16 February 2006

Jeudi 16 février 2006

The committee met at 1540 in committee room 1.

USE OF TECHNOLOGY

The Chair (Mr. Bob Delaney): Good afternoon, everyone. We are convening here on this occasion to complete, I trust, our deliberations on the use of technology in the chamber and in the precinct.

We've had before us for some time the Proposed Outline of a Report by the Standing Committee on the Legislative Assembly on MPPs' Use of Portable Technology in the Chamber, but it should probably read "in the Precinct." It may be expeditious for us to let Peter Sibenik, our intrepid researcher who actually did—and let me say this on the record—stellar work on putting together this outline.

Mr. Ernie Hardeman (Oxford): But no raise.

The Chair: No. We have to go to the Board of Internal Economy on a raise. Let's be clear: We're giving Peter a pat on the back and not on the wallet.

We'll let Peter walk us through, and let us see if we can come to a consensus on this and, as members, make our committee's material contributions to the advancement of life for members in the assembly.

Mr. Peter Sibenik: Before I go through the document, if I could refer you to another document that is at your place. It's called A Survey on the Use of Technology in Legislative Chambers in Other Parliamentary Jurisdictions. This is an updated version of a document that was left with the committee, I believe, in November. All that I've done in this document is added four more jurisdictions. Four more jurisdictions have responded to the survey, so that makes a total of 16 jurisdictions that have responded. Most allow some kind of portable technology, if only BlackBerries and PDAs, in the chamber. Most also allow notebooks. In fact, there would be 11 Canadian jurisdictions that allow notebooks. Nunavut is the only one that explicitly prevents members from using notebooks in their legislative chamber. So I just thought I'd preface my remarks with that particular document.

To the proposed outline, when I was drafting a document, I thought that, in view of the discussions the committee had the last time that the committee met, it might be helpful to put together a more fulsome document that sets out what a report by this committee could look like, so it is a more fulsome kind of a document, a more fulsome outline. As I go through this, perhaps if the

committee wants a more stripped-down version of its ultimate report, I'm sure it will let me know. This is a more structured document.

The first part of it, on page 1, is the introduction, which just sets out the fact that the committee has terms of reference from the Speaker. It considered the issues, it had meetings, it received input from the caucuses, and the committee is prepared to now report back to the Speaker.

I note that at the outset of the last meeting in November, the committee said that it thought it might be useful not just to focus on the chamber but also the wider precincts. I think there was a motion that carried at the outset of the previous meeting. So the reference to "chamber" in the actual title at the very top of the page could be changed to "precinct" if that's the wish of the committee, because that is what the committee decided the last time.

The second page of the document, if there's nothing on page 1, refers to the background, the problem why the issue is before the committee in the first place, namely the fact that, of course, the Speaker has referred the issue to the committee, but more broadly, because there have been incidents that have occurred in the chamber and in committee rooms in the past.

The Chair: If members have a question or a comment—and I know Mr. Sergio does—I think we can probably be fairly relaxed in the manner in which we contribute them. With the indulgence of the committee, if I have a few myself, which I do, if the committee doesn't mind, as none of this is particularly partisan, I can throw them in as well. Okay? Mr. Sergio had one comment.

Mr. Mario Sergio (York West): Maybe we should let the presentation be finished first, and then we can go to some questions. I have a couple of questions.

Mr. Rosario Marchese (Trinity-Spadina): Actually, if there are questions as we go, it would be better. I'm assuming, at the end of it, once we've done that, there's no more reason to debate it, right?

The Chair: You've got it.

Mr. Marchese: Yes. Go ahead, Mario.

Mr. Sergio: While I was going to the additional members who have already responded to this already, I see the amount of money that they have spent to provide the wiring for each member is exorbitant. What would it cost to service each individual desk here in Ontario? Do

we have any idea? It goes from \$40,000 to \$90,000 service to each desk. That's a lot of money.

Mr. Sibenik: Yes. One of the recommendations of the committee the last time that it met was that it go with wireless access. It sort of forgoes the need for there to be a power outlet. There are some jurisdictions that do have power outlets at each member's desk. The House of Commons is a prime example of that. You can just plug in there. But it is a more expensive solution to a problem. I'm not sure what the thinking of the committee was with respect to going with the recommendation of wireless, Wi-Fi access, but it is a less expensive solution.

If the committee is interested, it could request the attendance of a staff member at the office of the assembly who has expertise in drafting an estimate for the more expensive solution of having an actual power outlet at members' desks.

Mr. Norm Miller (Parry Sound-Muskoka): Power and the connection for the Internet are two different things, are they not?

Mr. Sibenik: Yes.

The Chair: I would assume that what we're discussing here is network wiring and that the network cable, which runs about \$1 a foot, wouldn't be necessary if we're running a wireless access point. But should we choose to, running an electrical outlet is inexpensive.

Mr. Sergio: Mr. Chair, just to complete, in answer to Peter's remarks, I think it would help me if we could have a staffer here who could answer those questions, either wireless or wired. I would have difficulty if, at the end, we were to find out that, either way, to service each desk or person is around \$30,000 or \$40,000 each. I would have difficulty with that.

The Chair: This is all you need right here.

Mr. Sergio: I'm not sure about that.

Mr. Miller: It is my understanding that the committee had already decided—I missed the meeting—to go the wireless route. It would seem to me that that would be much cheaper and simpler.

The Chair: Yes. At our previous discussion we had in fact concurred that we would be going wireless and we had resolved the wireless route.

Mr. Marchese: Therefore, there is very little cost, right?

The Chair: Correct.

Mr. Sergio: Very little cost?

Interjection: Yes.

Mr. Marchese: Being on the list to speak, I just wanted to say that once we determine that this is an important function or a function that we want to get into, I think that's basically what we should be agreeing to, because as soon as you talk about attaching money to different things, that would be a reason why you publicly may want to do something or may not. I think we should stick to the point of saying, "Is it an important thing that is good for Legislative Assembly members to be able to do?" That would be the principle that I think we should be supporting, rather than the other way around.

The Chair: Mr. Hardeman.

Mr. Hardeman: Mr. Chair, I agree. We had our discussion when we started about the type of hookup we would have, which would be whether we would install all the cabling or go to the wireless. Everyone conceded to the fact that, of the two options, wireless would be considerably cheaper, but neither did we get any figures on what it would cost for either one. But I find that somewhat irrelevant. I think our committee's discussion is about whether we're going to move forward into the technological age. The actual money that it's going to cost, I would suggest, is the obligation of the Board of Internal Economy as to whether they think that at this point in time the money allows us to go into that age of technology.

We've been asked to deal with what the position should be on technology and whether it should or should not be allowed in the chamber, or outside the chamber, for that matter. I think we should be working on the process.

If anybody knew my background, you'd be the first to say that I'd never want to approve anything that we don't know the cost of, but I think really what we're asking for here is whether, as a function, we want to go into the technology age, and I think we should move forward on that, even though we don't have a cost. The best time to find the cost is once you've decided what it is you're looking for. There could be great variances in the type of equipment or the approach of hookup, so I think we should proceed with the equipment part of it and the direction and let the Board of Internal Economy decide how we pay for it.

1550

Mr. Bas Balkissoon (Scarborough-Rouge River): I just wanted to ask the question, because we went through a similar process at the city of Toronto. We hard-wired the council chamber, because upfront wireless may be cheaper, but as you change your laptops, you've got to make sure you buy that wireless modem and you have the equipment to work.

The other thing is, if you have wireless in one location for your computer, does it also work when you take it to your office and you hook directly into the network? To look at the added costs in the laptop versus a hard-wired system, the concern was also security. I know there's encryption today, but I've heard that people have been able to break into wireless systems a lot more easily than if they're hard-wired. I'm just asking; I'm not a technology expert.

The Chair: Thank you. Much of the discussion occurred before you were appointed to the committee. By the way, officially, welcome.

Mr. Balkissoon: Thank you.

The Chair: To very quickly synopsize: Prior to when you came on—members can correct me if I'm wrong—we had this discussion over the span of three or four meetings. We were sufficiently impressed with the security of WPA or even WEP wireless protocols. I remind you, of course, that the wired outlets in our building are completely unsecured; everything is transmitted in the

clear. For the last several years, every laptop and tablet made by every reputable manufacturer has wireless capability built into the motherboard, so certainly from the standpoint of implementation, it should be trivially easy. The only reason that a member might conceivably run into a problem is because they're still using an old computer which perhaps they may wish to think of an upgrade to.

Mr. Marchese: I do want to say, however, that if some of the members feel very strongly about something, we can delay the process and we can wait for the information and ask for it. If Bas has other concerns based on his experience that he wants a report on, we can delay this for as long as need be. I don't think we want to put anybody off, right?

The Chair: Of course, the usage of the technology is entirely at the discretion of the member anyway.

Mr. Marchese: Yes, but I didn't want our opinions to be able to override, one way or the other, any concern that members have.

The Chair: Agreed. Should we let Peter continue through the draft report?

Mr. Marchese: I'm not sure whether the other two members who have spoken have any other concerns based on what they've heard. Then we can move on.

Mr. Balkissoon: Carry on.

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): I just want to make a generic comment. Maybe it's product of age or maybe it's a product of experience. I worked here back in the mid-1970s. We didn't have cellphones, we didn't have computers and we didn't have the Internet. You actually did your research in the library, and you even played cards together on Friday nights. As one who was here then and is here now, I have a very real sense that the quality of the debate, the quality of the decision-making and the quality of the attention in the chamber was much higher then than it is today.

It's difficult. We had a meeting recently on a health care issue involving some seniors and there were some health care people who came—

Interjection.

Mr. McMeekin: I just want to say, we were having this meeting, and everyone at the meeting was playing with their BlackBerry. The only time the most senior person looked up at all was to say, "We can't do that." I've got to tell you, as an elected person, to actually have come to the meeting with the hope that we might get something done—and I know I'm a Luddite or whatever they're called. I use technology in my office. My real worry would be—and this happened in British Columbia, as I understand it—that it becomes code for, "Let's get the bullet points for debate into the House."

In British Columbia, they were actually asking questions, and the staffers were answering the questions. One was coming in on the computer. They were reading the answers off the computer screen. That is not what—I say this respectfully—we were elected to do. I think too many of our democratic functions have already been

turned over to the bureaucrats and the technology that they use. So I just want to flag that. That's a real concern for me as a member of the Legislative Assembly, that that kind of use of technology not interfere with the primary function. I want to just put that principle on the table.

I admit. I've been up front. I'm a Luddite on this. I'm on the information highway looking for the off-ramp.

The Chair: Thank you. The bad news, I'm afraid, is that you won't be allowed to bring your portable Underwood into the House. If you may recall from the debate, the committee actually agreed with you on the use of technology in situations where it may interfere, and when we go back to Peter, who has summarized the committee's recommendations, I think you will find that your concerns have been addressed.

I think Mr. Marchese has to make a comment, and then Mr. Hardeman.

Mr. Marchese: I agree with Ted, generally speaking, but I also know that we are in the minority. Part of what we're doing is recognizing the fact that other people love to use technology almost all the time. I know my buddy Gilles Bisson constantly has the BlackBerry with him, and I find it disconcerting. I really do. We're talking, and he's constantly using it. I'm certain other members do that all the time.

I think what we're doing is allowing members who feel that way and want to do it to be able to do that, but there is another part where we speak about where some of this technology should not be used, and question period is one of them. I agree with that. I think people there are forced, and should be forced, to listen to the debate and not play with any gadgets.

Mr. Hardeman: I'm having a little concern now as we're hearing the speakers, and we keep saying, "I know I'm in the minority," but if one more person speaks after me with the same opinion, it's going to be the majority of this committee. I agree, and I have a personal problem with some of the technology. A lot of times, I don't see a great use for it. The only computer I use is the one that hangs on my belt: the BlackBerry. I don't even have a computer, laptop or otherwise, in my own office.

If I could ask the researcher to do a report, I expect that somewhere back in history a discussion happened, something like what is happening right now, when they decided to bring the telephone line into Queen's Park: "Why would you need that? You don't want information from the outside coming in. You're bringing the people in to make the laws here, not to hear about them." So they had no need for telephones. As you think back on it, I expect it's likely a good thing that the minority was over—

Mr. McMeekin: For the record, I have no trouble with the telephone.

Mr. Hardeman: I think the other thing—and I point out the challenge if we say, "Well, there are certain times in the Legislature"—and I agree with that, too—"where they should not be using the laptop." The minister should not be answering the question by reading it off the

screen, but I'm willing to bet that as we proceed 10 years from now, if we approve it this year, no one will be wondering when these computers can and can't be used, because it will be the common thing, as the telephone is today. So I think we should work towards that and carry on with the report as to the decision we are making here as to whether we should allow technology into the chamber as we move into the technology age.

The Chair: In turning the floor back to our researcher, the Chair notes that, as old as the telephone is, its use is prohibited in the chamber.

Mr. Hardeman: They use it at the table.

Mr. Marchese: But he raises a good point.

Mr. Sibenik: Dealing with section B of the report again, I've prepared a six-page background paper on how the history of this issue has been handled at the Legislature, different committee reports and incidents that have occurred in the chamber. I can write about a half a page on the background. The question becomes whether the committee wants me to include the research paper as an appendix to the report.

The same thing goes for the discussion in section C, other jurisdictions, where I could summarize in half a page what the situation is in other jurisdictions. The 16-page survey that I prepared could be attached to the report too. Is it the wish of the committee that the appendices be attached to the report or left out?

1600

Mr. Miller: My vote is yes. I think other members would find them interesting.

Mr. Marchese: Mr. Chair, I don't know if you missed the question, but he's asking whether the research officer's background note on the subject could be attached as an appendix. I have no problem attaching it as an appendix, and neither does Norm Miller.

The Chair: Nor does the Chair.

Mr. Marchese: Bob, I don't know whether the other members have any comment on it. Do you guys agree that we should be attaching it as an appendix?

The Chair: The Chair has no trouble with that. Seeing no response, I think—

Mr. Sergio: Yes.

The Chair: Okay, there we go. Peter, continue.

Mr. Sibenik: Section B of the report, the middle of page 2: This is the discussion and recommendations part of the proposed report. Initially, there would be a discussion perhaps of the overarching principles that guided the committee in its deliberations, things like the importance of vindicating parliamentary democracy, order and decorum, and equipping MPPs to carry out their responsibilities in a modern information age. I would amplify each of those points, if necessary.

Mr. Marchese: Peter, the word "vindicating" parliamentary democracy, could you speak to that?

Mr. Sibenik: "Upholding" parliamentary democracy. How does it look when members are using these pieces of portable technology in the legislative chamber? If people are watching—

Mr. Marchese: But "vindicating" indicates something, right? It speaks to the idea that somehow there was an egregious error or some abuse before or some problem, and we are now vindicating it. Do you know what I mean?

Mr. Sibenik: Yes. How about "upholding"?

Mr. Marchese: "Upholding"? Okay. Do people agree that "vindicating" indicates some problem? "Upholding" is fine for me, unless others have any other—

Mr. McMeekin: "Vindicating" sounds too theological to me.

Mr. Marchese: "Upholding."

Mr. Balkissoon: "Preserving."

Mr. Marchese: You could preserve too. It's the same idea.

Mr. Sibenik: Okay, "upholding and preserving."

The next section discusses the advantages, pro and con, of portable technology. This appeared in a previous outline that I prepared. It discusses in a straightforward way what the advantages and disadvantages are of having portable technology in the chamber. At this point in the report, I think that there should be some expression of the view of the committee. There are the pros and the cons, and now the committee has to decide. Are the advantages more important than the disadvantages? It seems to me that the committee is moving in a direction in favour of more portable technology. It's in favour, in principle; however, it has to work on the details, on the actual implementation, and that's what the rest of the report is dealing with. But I think that there should be some kind of statement of principle coming from the committee at this particular point before it goes into the actual details of the guidelines. That's what I'm looking for: direction from the committee.

Mr. Marchese: I agree with what Peter is saying, but I would include the potential disadvantages in the affirmation of why we're doing it. We should also say that we are interested in making sure that there is order and decorum. Rather than introducing them as disadvantages, we should include them as part of what we're doing. We don't want to introduce new technology with the implication that order and decorum are out the window; we want to introduce new technology while still maintaining order and decorum. Do you know what I mean, Peter?

Mr. Sibenik: Yes, I do.

Mr. Marchese: That might apply to the other bullets. So we want to introduce new technology without detracting from debate functions. They're not there as disadvantages, but they become points of strength as we introduce new technology. We introduce new technology while at the same time making sure it's not obtrusive and noisy. I'm just going on and on, but you understand what I'm saying.

Mr. Sibenik: Yes.

Mr. Sergio: But at the same time, Peter speaks as well of those acceptable and not acceptable, which I agree addresses decorum in the House: What would be acceptable and what would not be acceptable, and what would

infringe on decorum in the House? I think in practically almost every guideline, Peter is repeating the same thing: Because of their presence in the chamber, is it inherently obtrusive? Not in those words, Rosario, but I think Peter is saying that in the various guidelines.

Mr. Marchese: Yes. I understand. I just thought that stating it is a good thing, but we don't have to state it.

Mr. Sergio: If you want to make it more explicit.

Mr. Sibenik: Then we head into the technology guidelines. I thought I'd explain the preface to this part of the section by giving the example of a BlackBerry or a Treo, which have these many functions. They can do telephone calls, voice mail, e-mail, Internet; they can take pictures. To my way of thinking, some of those uses that you can make of BlackBerries and PDAs would be acceptable; others would not. Instead of trying to identify acceptable or unacceptable—

Mr. Marchese: Peter, can I ask you—

Mr. Sibenik: Yes.

Mr. Marchese: I'm sorry; it seems that you're talking to one or two people, Mr. Chair. We're all in this together, right?

The Chair: Mr. Marchese.

Mr. Marchese: I think we should all be listening.

The Chair: Okay.

Mr. Sibenik: Instead of trying to identify acceptable versus unacceptable technologies, I think the committee might want to take what I call a more nuanced approach based on the five guidelines that follow. This is the heart of your report. These five guidelines would be the key thing that the Speaker, for example, would be looking to.

The very first one there is that some of the technologies should be completely banned from the chamber because they are inherently obtrusive. I give a list, at the top of page 4, of the kinds of things that qualify as being inherently obtrusive. The first one there is the large technologies. You wouldn't want a member to be walking into the chamber with a hard drive in one hand, the keyboard in another, and taking it to his or her desk and snaking an extension cord from the equipment over to the table or into the opposition or government lobbies. That's not on. That's my sense of things.

The question then becomes—and I indicate that at the end of the first bullet points—how compact or how large does the technology have to be before it becomes acceptable versus unacceptable? The committee went around the table, around the horn on this issue the last time it met in November. I noticed that a lot of members, for example, were impressed by the tablet computer that the Chair was demonstrating. But the issue became things like notebooks, flip-up things. Are they acceptable or unacceptable under the first guideline? That's the first really big decision I think the committee has to—

The Chair: In our discussions, we resolved that, if I recall, by saying that given that we would ban the technology until after routine proceedings, where there is minimal opportunity—for example, a clamshell computer that would flip the top up—to disturb the House, we said, "What difference does it make?"

Mr. Marchese: Peter, I don't know that we need to necessarily specify the size, other than referring to the tablet. Can I ask you, Bob, "tablet" means just that, right?

The Chair: Yes. If you use the words "tablet PC" or "notebook" or "laptop," those are industry standard definitions that would elicit a generally accepted range of devices.

Mr. Marchese: "Accepted range" meaning what you have in your—

The Chair: What I have here, you could say, "This is a tablet PC," period.

Mr. Sergio: Or whatever the industry may offer. If you say just a plain laptop, I may go and buy the largest one on the market.

The Chair: The Speaker, I think, would have the flexibility to rule whether or not it does or doesn't fit on your desk.

1610

Mr. Miller: That would be part of my question: Would the Speaker have some discretion? I'm sure the great majority of people are going to bring your typical, normal laptop computer, but would the Speaker have some discretion if—

Mr. Marchese: There is a section—

The Chair: Yes, farther down in the report we put—

Mr. Miller: I think I missed the meeting where you came to the decision that any kind would be acceptable. Basically you're saying that any kind—a tablet, a laptop—would be fine as long as it's not used in question period.

The Chair: After routine proceedings.

Mr. Marchese: Sorry, I thought we agreed to the little tablet you've got—

Mr. Miller: No, that's why I was clarifying it, whether the flip-up normal laptop is acceptable as well, not just a tablet.

Mr. Marchese: I see. I thought you were just talking about that little piece. The other one can be how big?

The Chair: They're all kind of tiny, Rosario.

Mr. Marchese: They're all kind of tiny or—

The Chair: None of them exceeds a package about the size of the unit I'm holding.

Mr. Marchese: That's the question I want to ask, because Mario said, "Could someone be bringing in one the size of a metre, for example?" Do they exist?

Mr. Miller: I'd say the Speaker should have some discretion on that. Without saying a physical size, you give the Speaker some discretion so that if something is obviously obtrusive, the Speaker has the right to say that isn't acceptable.

The Chair: Sit tight. Peter's already thought of that.

Mr. Balkissoon has a comment.

Mr. Balkissoon: "Laptop" and "tablet"—those are industry standards or marketing names. If you're creating a policy, you should probably use words that could last for a long time. My suggestion would be that it has to be portable and that it's a singular unit without AC power.

The Chair: I have no trouble with that.

Mr. Balkissoon: That way, if industry comes up with something new next year—

member is doing something that would contravene the standing orders, would apply similarly to a function that would be technology-assisted.

Mr. Marchese: Can I ask you: if the Speaker has latitude in terms of what is acceptable and not acceptable, is what you're adding necessary?

Mr. Sergio: Yes.

The Chair: In your opinion? Mr. Sergio says yes.

Mr. Sergio: I think the Speaker should have the final decision.

Mr. Marchese: Peter was talking about acceptable and unacceptable. The way they're written, that means what is listed is acceptable and what is not listed is unacceptable, and that's it. Do we leave it like that or do we offer them examples of what is acceptable and what is unacceptable?

The Chair: I take your point. Would it be helpful to offer those two bullet lists as examples of what is and isn't acceptable, more to be generic than to be specific given the evolving nature of technology?

Mr. Marchese: That's right.

The Chair: Okay.

Mr. Sibenik: The third guideline: A member "should not use otherwise acceptable technology or technological functions during certain periods." There's a list there. I heard a lot of discussion in the previous committee meeting about the fact that it should only be after orders of the day. Is that the view of the committee, that it should be only after orders of the day?

Mr. Marchese: Yes, Peter.

Mr. Sibenik: Can I ask for some clarification? On Thursday mornings, private members' hour is technically orders of the day. Do you want that included as—

Mr. Miller: Yes.

Mr. Sergio: Sure.

Mr. Sibenik: You do want that included?

The Chair: Yes.

Mr. Sibenik: Okay, including Thursday mornings. In orders of the day, let's say there's a division. Let's say the Lieutenant Governor gives royal assent—ceremonial occasions—should members not be allowed to use during those times?

Mr. Marchese: Yes, I think that makes sense.

Mr. Sibenik: Okay. What about the throne speech?

Interjections: No.

Mr. Sibenik: Budget speech?

Interjections: No.

Mr. Marchese: It's in keeping with other jurisdictions.

Mr. Sibenik: Yes. Many jurisdictions have that.

Mr. Marchese: I agree.

Mr. Miller: A question for the committee, if I can. That would mean, in members' statements you wouldn't be able to use it. Is that the intention of the committee?

Mr. Sibenik: That's right. That's before orders of the day.

Mr. Miller: That's why I'm asking the question.

Mr. Marchese: That's fine with me.

Interjection.

Mr. Marchese: That's right, yes.

The Chair: And in the evening.

Mr. Marchese: Yes.

Mr. McMeekin: During those really exciting things.

Mr. Sergio: After question period.

The Chair: Actually, after the last petition has been read.

Mr. Sergio: Yes, the petitions.

Mr. McMeekin: I want anything that interferes with Rosie.

Mr. Marchese: Thank you very much, Ted. Did you catch that on the record?

Mr. Miller: I personally wouldn't have a problem with members' statements and petitions, for example, but I'm not sure how you would frame that. It's cleaner and simpler to just say "orders of the day" and put a few other exceptions, but maybe it's easier to say when you can't use it, like question period and on special occasions, like the throne speech and the budget speech.

The Chair: In most of our discussion, we came up with the orders of the day suggestion based upon the two criteria you mentioned: cleanliness and simplicity.

1630

Mr. Miller: That's fine.

Mr. Sibenik: At the very bottom of page 4, there's an important point that the committee will need to turn its mind to: "Should an MPP who has the floor, and an MPP who is adjacent to the MPP who has the floor, be allowed to use portable technology?" So if you're in the middle of making a speech, should you hold it up and quote from whatever? It's also an issue—

Mr. Balkissoon: But that raises the issue that Ted raised at the beginning, that somebody could be sending them an e-mail to give them the answer they were looking for. Are you protecting democracy?

The Chair: Just as a point of clarification for Mr. Balkissoon, if what you're suggesting has to do with question period, question period occurs before orders of the day.

Mr. Balkissoon: But even a person standing up for a 30-minute speech, they're running out of info and somebody sends them more, or they said something wrong and the guy across the hall says, "Correct your statement."

Mr. McMeekin: He says, "You voted for this the other day in committee." "No, that's not true. Here's the answer."

The Chair: Any further comment?

Mr. Marchese: It's a tough one in terms of how you start regulating this whole matter. All of a sudden you say we should have this technology and then you're saying, "These are the conditions under which you will use them, and by the way, if you're making a speech, your neighbour can't be using any technology." I think it becomes complicated. I understand the concerns but I'm not that worried about it. I personally wouldn't be using any technology, even though I would love to do it, if I knew it was on camera. I would never want to be caught on camera while somebody is speaking and me playing

either with a Blackberry or with a tablet. I just would never do it, because it looks bad.

Mr. McMeekin: Like reading the newspaper.

Mr. Marchese: Like reading the newspaper—equally offensive. I absolutely agree. In that regard, while it brings disrepute to the House, I think it brings more disrepute to the member, should that individual be seen on television doing that. But to then start talking about under what conditions you limit it, I think it's a bit complicated. So I don't think we should put in those kinds of restrictions.

Mr. Sergio: For the benefit of the members, instead of a very strict direction, a good line would be "not to be used while your next mate is addressing the House or speaking" or whatever.

The Chair: Mr. Sergio suggests that we not have a strict policy but more a series of suggestions or guidelines.

Mr. Marchese: You could.

Mr. Miller: Just for clarification, I gather it's the agreement of the committee that someone who was delivering a speech in the Legislature would be able to have their laptop open within the orders of the day time period and use the laptop—either have the text of the speech on the laptop or points, whatever they might have on a sheet of paper.

Mr. Marchese: Yes, they could if they wanted.

The Chair: Yes, you could.

Mr. Miller: I guess we'd save some trees, because what's the difference if it's on paper versus being on a laptop?

Mr. Marchese: It looks just as bad to be reading from paper as it is a tablet, in my view.

Mr. Sibenik: Does the committee want to have a restriction as to whether the member should be allowed to raise it off the desk or not, or should it stay on the desk when the member has the floor?

Mr. Marchese: On the desk, absolutely. You shouldn't be lifting it.

Mr. Sibenik: It stays on the desk?

Mr. Marchese: Absolutely.

Mr. Sibenik: Okay.

Mr. Marchese: Sorry, I think it looks dumb to be actually lifting a tablet. To me, I think it really looks bad.

Mr. Sergio: Notwithstanding whatever direction we finally give the Speaker and whatever the Speaker may say, the bottom line is that whatever we do has to be within certain parameters, that nothing is going to be done by any member that would take away from the decorum of the House, even though we have received approval to use technologies. It's going to happen. Somebody maybe is going to prop it up and say, "Look, you want the information, you want the answer, Mr. Speaker? Here it is," and turn around the computer or whatever. It's going to happen. Are we really going to be that respectful of one another in the House and of the House itself in conducting ourselves, regardless of what the strict directions may be? Regardless of what the directions may be strictly, and enforceable—it has to be

up to each member to use discretion in every case, because the Speaker cannot control members, and once something is said or done, that's going to take it away.

The Chair: Let's see if I can encapsulate this, then. Our consensus is that after orders of the day the approved technology can be used by the member, including if he or she is speaking, including if he or she is adjacent to the Speaker. Mr. Sergio has essentially said that once the genie is out of the bottle, then it's your judgment as an adult that determines the use. Mr. Marchese has said that perhaps we should say that the technology has to sit on the desk and be in contact with the desk.

Mr. Marchese: I would say that, personally; I would want us to say that. I have no—

Interjection.

Mr. Marchese: Yes?

Mr. Sergio: And not to be used as a prop.

Mr. Marchese: That's fine. The point was that lifting the tablet up looks stupid, in my view. I'm assuming you all agree. Rather than having the Speaker determine that, we could say that. Rather than having the Speaker say, "You shouldn't be lifting it and showing it," I think we should simply state it: It should stay on the table. Do you have a problem with that, Bob?

The Chair: No. It would in fact be within the standing orders for the Speaker to declare the usage to be a prop.

Mr. Marchese: I was about to say that earlier. In the same way that the Speaker has ruled on props where they show things, that would probably be what the Speaker would say. My view is that if we say it, it's much clearer, and then we don't have to worry about it.

Mr. Sergio: What I'm afraid is going to happen, during a very heated debate—and there is one going on now—is that a member who wants to make a particular point says, "Mr. Speaker, this is what the Premier said when he was in opposition. It's right here." He can't say that if the computer is sitting on the desk. He will have to lift the computer and say, "Mr. Speaker, this is exactly what the Premier said when he was in opposition. Now that he is Premier, he is telling a different story. This is what he said" on such and such a date. This is going to happen. Now, we're not supposed to do that, but once it happens, the Speaker's going to say, "Order." Well, that's too bad. It's too late; it's already done. The member has already made his point; he has already propped.

Mr. Marchese: But it's the same way that we use props and they get removed.

Mr. Sergio: As I said, even though we have these very strict directions, if you will, from the Speaker, it has to be incumbent upon each member—

The Chair: Can the Chair try a suggestion on you? If, in the opinion of the Speaker, portable technology is used as a prop rather than a speaking aid, the Speaker may request the Sergeant at Arms to confiscate that portable technology for the balance of—you know, in the same manner that your BlackBerry is gone if it rings.

Mr. Sergio: That's okay. It opens up another can of worms, but that's okay.

Mr. Marchese: Yes, I agree.

The Chair: All right? Okay. Interesting points.

Mr. Sibenik: Was that a yes to that suggestion?
Interjection.

Mr. Sibenik: Yes.

The Chair: Okay. Peter, I think we're on page 6 now.

Mr. Sibenik: Five.

The Chair: Sorry, the bottom of page 5?

Mr. Sibenik: The top; we're on the fourth guideline: "Should there be restrictions on the purpose for which MPPs can use technology and technological functions?" This assumes that you're allowed to bring in a piece of technology or you're allowed to use a technological function. But should there be restrictions on the purpose for which you can use these technologies or functions? Should you be allowed to do your personal banking?

If you ask me that question, I'm subject to the Office of the Assembly acceptable use policies. My account can be pulled if I make unacceptable use of my computer; it's owned by the Office of the Assembly. Those guidelines do not cover members and caucuses. Maybe you have your own caucus guidelines, your own internal ones that I'm not aware of; I'm not sure.

This is a difficult issue. It may not be necessary to discuss this in this particular report, because if you don't have the guidelines for other pieces of technology, why would you need them if you're in the chamber?

1640

Mr. Marchese: That would be my sense, Peter. I don't know that we need this guideline.

Mr. Sibenik: Yes.

Mr. McMeekin: Unless we've got high-tech cops.

Mr. Marchese: I think we should eliminate this guideline altogether. I don't think it's useful.

Mr. Sergio: If somebody wants to snoop, they still can snoop. You can look at choosing your wallpaper underneath your desk and there is a camera peeking through. If you want to do that—either we do it or we don't. We have no control over that.

The Chair: Fifth guideline.

Mr. Sibenik: It's almost like a catch-all guideline. This is the one where the Speaker has the authority to exercise the Speaker's traditional authority, especially dealing with order and decorum. I think many members were addressing this particular issue in earlier comments this afternoon. This would allow the Speaker to rule that a certain piece of technology is being used as a prop instead of as a piece of equipment needed—

Mr. Marchese: I agree with this, even though from time to time I've disagreed with what various Speakers have done in relation to some things. There is such a disparity in terms of what some Speakers think is acceptable by way of use of language and unacceptable, but I don't know how you deal with that; I really don't. So you have to keep this fifth guideline because I think it's helpful and important to have.

Mr. Sergio: You cannot challenge the Speaker, Rosario. You know that.

Mr. Marchese: And you can't challenge the Speaker. That's right.

The Chair: Is the fifth guideline okay? Good.

Mr. Sibenik: The next one is on wireless access points. There is a bit of a discussion about the fact that members are at work in many different places, in the precincts and outside of the precincts. It would be helpful if they had access to electronic resources in the many different places that they work.

There are a series of five bullet points about where wireless access points should be located. I think that was the subject of a previous motion by this committee.

There was some question as to whether the wireless access points should also be located in the legislative chamber. I'm not sure—

The Chair: We just discussed that.

Mr. Sibenik: Okay. I think the letter that went to the Speaker may not have explicitly indicated that. It did indicate all those other places, but I'll make an explicit—

Mr. Marchese: Yes. I think so.

Mr. Sibenik: —mention of this.

The last point was raised earlier. In light of the committee's views on wireless access points, what about electrical outlets and network drops at members' desks? I don't know if the committee has gone around that issue sufficiently, but I've raised that at this particular point here. Are there any further thoughts on that issue? Okay.

The next issue is installation costs, training and technical support. Does the committee have any recommendations to make on that particular issue? This deals with wireless access points.

Mr. Sergio: We said there was no cost.

Mr. Marchese: That's right.

Peter, on the issue of training and technical support, is there something we need to say, or doesn't this happen automatically?

Mr. Sibenik: I'm not sure how you get wireless access. I'm a bit of a Luddite myself on that. I'm sure the Chair has—

The Chair: With regard to installation, looking at, for example, this committee room, assuming that a single wired cable is available anywhere in this room, one could pick just about any place on the wall and install a single access point. The retail value of those has now fallen well below \$200, and that doesn't include the Legislature's buying power as well as any inventory of such Cisco devices that may be here.

Mr. Marchese: And technical support?

The Chair: Tech support: LIS is already able to provide support for Legislature-approved applications.

Mr. Marchese: And that will continue?

The Chair: There is no reason to feel, as this is a hardware function and as LIS already supports hardware functions, that there is anything insurmountable, because, indeed, were we to have that here now, to take my computer, all I have to do is open it up and turn it on.

Mr. Marchese: Bob, do we need to mention it as a way of indicating that perhaps LIS needs extra resources

or might need extra resources, if any, on this issue, one way or the other?

The Chair: It might be helpful to be specific that we may wish to ask LIS to be prepared to do the function of training. There isn't much training required, but as far as doing your first log-on on a wireless access point and understanding that once you're logged in, it's exactly the same as being on a wired point—

Mr. Marchese: The point I make is, do they have an existing budget that would deal with that, or is there an extra cost? The point of mentioning it is a way of supporting needed resources that LIS might require. That's the only point I make.

The Chair: We will definitely ask our researcher to undertake that with LIS.

Mr. Marchese: In which case, we would point that out in the report.

The Chair: Yes. Thank you.

Mr. Sibenik: That leads us to section 5, privacy and security. Wireless access points should be secure. There should be passwords that can be changed periodically.

In the second bullet point, I've indicated a list of difficult scenarios, for want of a better expression, that the Speaker would probably have to address. The Speaker has sent the committee a letter of reference. I'm not sure whether the committee wants to get into any level of detail in addressing these kinds of difficult scenarios.

Mr. Sergio: The media is going to love this.

Mr. Marchese: I know. This wouldn't be helpful in terms of putting it out, because that would only engender various comic kinds of comments that I don't think would be appreciated. I'm not sure we need to deal with that, unless there's somebody else like Bob who has—

The Chair: I'm with Rosario on this one, absolutely. We've earlier defined a sufficiently broad degree of authority for the Speaker on this, and in terms of technical aspects of it, we've defined LIS as our support resource. I think this may be redundant.

Mr. Marchese: Yes, and if there's any matter that comes up, the Speaker will always deal with it, as he does.

Mr. Sibenik: So there will be no mention of the second bullet point and items (a) to (g) in the report.

Mr. Marchese: That's right.

Mr. Sibenik: Okay.

Mr. Miller: That's under privacy and security?

Mr. Sibenik: That's right.

Section 6, on enforcement—

Mr. Sergio: It's always the Speaker.

Mr. Sibenik: The Speaker should enforce.

Mr. Sergio: Yes.

Mr. Sibenik: The upgrade and the review of the guidelines and standards: There might be other bodies. Is it necessary to go into this? I guess I should ask that question.

Mr. Sergio: Not at this stage.

The Chair: The upgrade and the review falls very squarely within the mandate of this committee.

Mr. Miller: So that's what it should be then?

The Chair: There's no need to change it.

Mr. Miller: It doesn't have to be specified?

The Chair: Right.

Mr. Marchese: I don't think it needs to be specified.

Mr. Sibenik: We don't need to indicate that in the report.

Mr. Sergio: Number 7.

Mr. Sibenik: Implementation: I'm not sure what the committee wants. Is the committee happy with the word "guidelines"?

Mr. Marchese: Sorry, Peter; I'm not sure it's understood that the standing committee on the Legislative Assembly—

The Chair: Its terms of reference are specific enough—

Mr. Miller: Just restate that.

The Chair: Yes. Let's restate it then.

Mr. Marchese: Yes.

The Chair: All right.

Mr. Sibenik: That the committee has jurisdiction to revisit the issue?

The Chair: Or that jurisdiction remains within the terms of reference of the standing committee, or words to this effect.

Mr. Sergio: And there is still a final report, I believe, forthcoming from staff, isn't there, Mr. Chairman?

The Chair: Yes.

Mr. Sibenik: The actual implementation: I'm not sure the committee is happy with the word that I use here: "guidelines." If the committee is happy with that, I'm quite content to call it "guidelines" as opposed to "recommendations" or "reviews." Does the committee have any views?

Mr. Marchese: I think "recommendations" is fine, and if "guidelines" appears in the report from time to time, it falls within the rubric of "recommendation."

1650

The Chair: I detect a consensus on the word "recommendation."

Mr. Sibenik: "Recommendation," and I've got a list of options there for the committee, whether it wants to recommend that they be hard-wired into an order or just simply send a report on to the Speaker.

Mr. Miller: Would that suffice to implement it? Would the Speaker's acceptance of the report result in—

The Chair: A note that I made on this is to ask for clarification by legislative counsel whether the Speaker's acceptance of the final report is sufficient to implement it.

Mr. Marchese: My sense is that the assembly has to approve it; no?

Mr. Sergio: It has to go to the Speaker first.

Mr. Sibenik: The Speaker has jurisdiction over the matter of order and decorum. That's hard-wired right into the standing orders. So if there was an all-party report that came from this particular committee that was addressed to the Speaker, it would be within the provenance of the Speaker to implement the guidelines or the recommendations in the course of exercising his jurisdiction over order and decorum.

Mr. Marchese: The problem, Peter, is that we haven't necessarily gone back to our caucuses with the final recommendations we're making. So if we send this to the Speaker with the understanding that all three parties have agreed to it, it could produce a problem for some of our members. Maybe we should bring it back to our caucuses and show them before we send it forward.

Mr. Sergio: Why don't we get the final report from Peter before we take it to our caucuses?

Mr. Marchese: And then we send it to our caucuses so that we don't get into trouble.

Mr. Sibenik: I should indicate that it was the Speaker who requested the report of the committee.

Mr. Marchese: I agree.

Mr. Sergio: And it has to go back to the Speaker.

Mr. Marchese: My point is that as long as the caucuses agree, and then it goes to the Speaker and he says, "This is great," then we have no more problems.

Mr. Sibenik: Yes. What I'm going to be coming back to the committee with is draft 1 of the report. This is not draft 1, this particular document here; it's the proposed outline.

Mr. Marchese: That's fine.

Mr. Sergio: Based on that, I'm ready to make a motion.

The Chair: Motion by Mr. Sergio.

Mr. Sergio: I'll try that: That the first draft of the final report, or the final report—I have no idea where we stand, but I'll leave that to Peter if it's going to be final or first draft of the report—be drafted by the researcher and approval be given by the subcommittee prior to the submission on behalf of the committee to the Speaker.

The Chair: Mr. Sergio has moved that—

Mr. Sergio: The final report or the first draft report be drafted by the researcher, by staff and the final or first report be approved, the approval be given to the subcommittee prior to submission on behalf of the committee to the Speaker.

The Chair: Clear, or should it be read again?

Mr. Miller: I think it should be read again. Did he say "approval of the subcommittee" or "approval of the committee"?

Mr. Sergio: No, "approval of the first report"—

The Chair: My understanding of the motion is that the draft report by our researcher be submitted to the subcommittee prior to being sent to the Speaker. Mr. Marchese had made the point that—did you want to run it by your caucus prior to submission to the Speaker?

Mr. Marchese: Yes. I have no problem with it going to a subcommittee, but then that report should come here, which allows us time to go to our caucuses for approval. Otherwise, the way it's written, it's the subcommittee that approves it, and I want to make sure that we have time to be able to—

Mr. Sergio: Yes, yes. We discussed that before, that we'd take it to our caucuses.

The Chair: Just for clarity, then, the order is as follows: draft by Peter, approval by subcommittee, run it by the caucuses, submission to the Speaker, implementation.

Mr. Miller: You missed the committee.

The Chair: I'm sorry. Discussion in caucus, back to committee, submission to the Speaker.

Mr. Marchese: Yes, that's the motion.

Mr. Miller: Yes.

Mr. Marchese: And the point is that once we have that agreement, then we might only need five minutes to expedite it out.

The Chair: Okay.

Mr. Sergio: Fair enough.

The Chair: Fair enough?

Mr. Sergio: Yes.

The Chair: Is it the pleasure of the committee that the recommendation carry? Carried.

Mr. Marchese: Mr. Chair, there's an item on our table. Is that something we need to deal with?

Interjection.

Mr. Marchese: You can speak to all of us, Doug.

The Chair: The item on your desk is an e-mail sent to the clerk from an individual named John Dunn, who makes a suggestion that over and above the matters we have just discussed—

Mr. Marchese: Live webcams be allowed to broadcast.

The Chair: —the proceedings of the House be webcast.

Mr. Marchese: Is that something for us to approve or is that something—

Mr. Sergio: That's not within our mandate.

The Chair: Well, it is within our mandate. It isn't the reason that we convened this meeting. If the committee wishes to discuss it, the committee can discuss it. If the committee wishes to defer this for another time, we—

Mr. Marchese: It doesn't seem complicated to me. We already broadcast. So it is available to people who obviously watch and people can record it. It's not a big deal.

The Chair: I remember bringing the question up in at least one of our meetings with one of the people from LIS and asking whether sufficient bandwidth was available to broadcast proceedings of the House, and I was told yes.

Mr. Marchese: If that is so, then we could do this.

The Chair: Would it be the pleasure of the committee to clarify whether sufficient bandwidth exists to webcast proceedings of the House and whether any technological obstacles exist to doing that and to undertake our researcher to provide us a report on the feasibility of webcasting House proceedings, to be considered at a future meeting?

Mr. Marchese: That's a very useful suggestion.

Mr. Miller: And if there's a rough estimate of cost, as well, just to know whether it's something that's expensive. Perhaps you know from your technological expertise whether this is an expensive proposition or whether it's relatively simple, if the bandwidth exists.

The Chair: The Chair knows enough about technology not to speculate on something like this off the cuff.

Is there any further business? This meeting is adjourned. Thank you, one and all.

The committee adjourned at 1700.

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Jeudi 13 avril 2006



Standing committee on the Legislative Assembly

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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 13 April 2006

Jeudi 13 avril 2006

The committee met at 1542 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Bob Delaney): Okay, we have quorum. Welcome to the standing committee on the Legislative Assembly. Pursuant to our agenda, considering agenda item number 1, the report of the subcommittee. Mr. Sergio.

Mr. Mario Sergio (York West): I move the report.

The Chair: You have to read it.

Mr. Sergio: Do I have to read it?

The Chair: Now an elocution lesson from the always articulate Mr. Sergio.

Mr. Sergio: Your subcommittee met on Monday, April 10, 2006, to consider the method of proceeding on Bill 190, An Act to promote good government by amending or repealing certain Acts and by enacting one new Act, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 190 on the Ontario parliamentary channel and the committee's website.

(2) That interested parties who wish to be considered to make an oral presentation on Bill 190 contact the clerk of the committee by 12 o'clock noon on Tuesday, April 18, 2006.

(3) That the deadline for written submissions on Bill 190 be 5 p.m. on Wednesday, April 19, 2006.

(4) That the committee meet for public hearings on Thursday, April 20, 2006, subject to witness demand.

(5) That witnesses be offered a maximum of 20 minutes for their presentation and that the clerk of the committee, with the authorization of the Chair, may amend the amount of time allotted for witness presentations in order to accommodate all requests to appear.

(6) That the subcommittee meet to determine additional public hearing dates, if the clerk of the committee receives more requests to appear than can be accommodated on April 20, 2006.

(7) That the committee meet for the purpose of clause-by-clause consideration of Bill 190 immediately following public hearings on Thursday, April 20, 2006, and if required on Thursday, April 27, 2006.

(8) That the committee request that the appropriate Ministry of the Attorney General staff associated with

Bill 190 be present during clause-by-clause consideration of the bill.

(9) That for administrative purposes, proposed amendments should be filed with the clerk of the committee one business day prior to the commencement of clause-by-clause consideration of Bill 190.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you very much. Discussion?

Mr. Norm Miller (Parry Sound-Muskoka): Excuse me; just one question. I'm sure you probably have an answer for it. If from the public hearings there come suggestions for amendments, but you have to have a day's warning or advance notice before the clause-by-clause starts—according to this, they're on the same day—how does that work, might I ask?

The Chair: It is possible to bring in amendments during clause-by-clause.

Mr. Miller: Okay. We could have public hearings and immediately do amendments on the spot and they would be acceptable.

The Chair: Is it the will of the committee to adopt the report of the subcommittee? Done.

USE OF TECHNOLOGY

The Chair: Agenda item number 2, review of the use of technology in the chamber pursuant to the Report on Members' Use of Portable Technologies in the Legislative Precinct. Any discussion of the draft report?

Mr. Peter Sibenik: I could take the committee through the draft report. If that's the wish of the committee, we can go through it page by page.

Mr. Miller: Do you mean the short version?

Mr. Sibenik: I was going to take you through the long version since the short version is basically a précis of the recommendations that are contained in here. What I was going to suggest is we go through the long version and I would change the short version according to the wishes of the committee at the end of the exercise.

The Chair: The Chair has an event at 6 and wishes this to be concise, if possible.

Mr. Sibenik: Yes.

Mr. Miller: Why don't you do the executive summary version?

Mr. Sibenik: I can do that. The executive summary version of the report, not the précis, or does the committee want me to go through the précis?

Mr. Miller: Sure.

Mr. Sibenik: Yes. The report is only 14 pages long; perhaps we can start at the text of the report. I don't have anything at page 4.

Mr. Sergio: Isn't this the digested version of the report?

Mr. Sibenik: This is the two-page précis of the recommendations. We're going to go through the 14-page report that should be in your papers on your desk. I was going to start there.

At page 5, I have a suggestion for the committee: the second paragraph at the end where it says, "... that MPPs who do not have the floor may use silent PDAs and pagers." I was going to add—

Mr. Miller: Is it page 5 we're talking about?

Mr. Sibenik: Yes, page 5, at the very end of the second paragraph, "... that MPPs who do not have the floor may use silent PDAs and pagers." I was going to suggest the addition of the words "but not portable computers and cellphones," because that is the—

The Clerk of the Committee (Ms. Tonia Grannum): It's actually the third paragraph.

Ms. Jennifer F. Mossop (Stoney Creek): The second full paragraph?

Mr. Sibenik: Yes, that's correct. The words that I was going to suggest be added are "but not portable computers and cellphones," since that is the existing practice. That paragraph talks about the existing practice, and the existing practice is not to allow portable computers and the use of cellphones on the floor of the chamber. Okay?

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Mr. Miller: Fine.

Mr. Sibenik: I didn't have anything else on that page. On page 6, the fourth bullet point, about halfway down, "In the jurisdictions that allow members to use portable computers...." I think it might be wise for the report to define what is meant by portable computers in this document. By that, I mean laptops, notebooks and tablet computers. I do refer to that elsewhere, but I think it should be explicitly indicated so that there's no confusion on the part of the reader.

Mr. Miller: So laptops, notebooks and—

Mr. Sibenik: And tablets. I use that expression elsewhere in the report so that everybody knows. I don't have anything else on that page, unless someone else does, nor on page 7 or 8.

On page 9 there are a few issues that the committee would have to resolve. The second bullet point has the first of several editorial notes that I've made in here. In the first one, I'm suggesting perhaps that the words "that are capable of attaching to or connecting with a PDA, portable computer etc. (by direct, wired or wireless connection)" be added to the end of the list. The reason for that is that there are different ways by which

peripherals can communicate, so to speak, with a piece of technology. It could be wireless, it could be wired or it could be a direct attachment. So I'm just wondering whether the committee wants the report to cover all the bases—any kind of means by which there is an outboard peripheral that is being used in harmony with a portable computer.

Mr. Miller: So you're saying they're banned no matter how they're connected?

Mr. Sibenik: That's right.

Mr. Miller: Okay, that's fine.

Mr. Sibenik: That's what I'm suggesting there.

The Chair: Can I raise a point? I'm just going to ask members on this. Should that include an external hard drive or an external CD or DVD reader? I don't have a problem with an external hard drive or an external DVD or CD reader or, for that matter, an external mouse connected by a USB cable. When we refer to an outboard peripheral, it would be to perform a function not related to the operation of the computer—for example, a printer, a scanner, a speaker.

Mr. Sibenik: Right now it's worded quite broadly. It says "printers, scanners, external drives, external speakers, and other outboard peripherals" are not allowed. So in a sense, the Chair is asking, I believe, for some kind of clarification or a modification that those items would be permissible.

Ms. Mossop: I guess you're suggesting that if somebody had all those contained in their laptop already, they would be able to utilize them. So you're just allowing it for somebody who might not have those built in.

The Chair: Pretty much, or if someone for whatever reason in the course of doing their work wants to read information off a CD or a DVD, that seems to me to fall within the intent of the permitted use.

Ms. Mossop: Yes, and it could just be a matter of their technologies and we shouldn't send people scrambling off to buy things unduly.

The Chair: For example, a laptop normally has a built-in CD or DVD reader; a tablet does not.

Ms. Mossop: Right.

Mr. Miller: Chair, how much noise would be associated with—

Interjection.

Mr. Miller: Isn't there a little bit of a whirring noise?

The Chair: Understanding, if indeed there was, hypothetically you could just put the device in your desk.

Ms. Mossop: I suppose if there's a lot of whirring or whizzing and all the rest related to what we're doing here, it's probably going to get batted back to us anyway.

The Chair: Yes.

Mr. Sibenik: The committee is okay with those technologies—

Mr. Sergio: Yes.

Mr. Sibenik: Okay. The second editorial note was probably covered already perhaps, but no fax machines. That's not added in the list.

Mice: I think the Chair has already said that an external mouse is okay. I think the committee has already agreed to that.

Collapsible keyboards: These are the kinds of keyboards that attach to a PDA and flip open and sort of make it easier to use the keyboard, in a sense. I don't know if that is something that the committee objects to or is okay with, or just leave it out altogether and let—

Ms. Mossop: I guess it doesn't really make any difference, does it, in terms of the level of noise or distraction that it might create? That's the most important thing, isn't it, in these considerations?

Mr. Sibenik: Okay?

The Chair: Yes.

Mr. Sibenik: The third bullet point, "AC adapters and extension cords": Perhaps the addition of the word "cables"? Except for the fact that the committee's already said that an external mouse is now okay, an external hard drive, DVD/CD reader? Perhaps leave it out?

The Chair: I have a suggestion on that: Just take it out completely. Mr. Bisson brought up a point to me in the House, that there isn't a problem with the committee recommending that at some time the assembly install electrical outlets. There's no point in bringing in an AC adapter if there's no place to plug it in; ditto with an extension cord. Should there at some future time be electrical outlets installed, this particular bullet point would then be redundant. My suggestion is to leave it out.

Mr. Sibenik: The entire bullet point?

The Chair: The entire bullet point.

Mr. Sibenik: Okay. The fifth bullet point, "Sound-emitting technologies": They would be not allowed. I'm just wondering whether a rumbling BlackBerry qualifies as a sound-emitting technology.

Ms. Mossop: A what?

Mr. Sibenik: A BlackBerry that vibrates on a member's desk, for example, that doesn't have a foam pad under it. It's come up in previous committee meetings, that members have said that sometimes they can make a little bit of a buzz, a vibration.

Mr. Miller: A buzz, and the way it's working at this time is that if it's on your desk and it buzzes, the Speaker or the Sergeant at Arms comes to collect your BlackBerry. That's the way it is right now, because it does get picked up by the audio system.

Ms. Mossop: They should be on silent if they're going to be in the House. The buzzing is distracting. It's noisy.

Mr. Sergio: Yes, sometimes.

Mr. Sibenik: The committee wouldn't want me to mention anything about those in this particular bullet point. Do I understand the committee correctly? Just leave it out and—

Mr. Miller: I would say.

Mr. Sibenik: Okay.

Under guideline 2, continuing down on that page, the very first line there, "Notwithstanding guideline 1"—I realized in retrospect that that perhaps is somewhat confusing. I'm suggesting the replacement of that initial phrase, "Notwithstanding guideline 1 ..." with the expression, "With respect to their unobtrusive technologies...." The background on this with respect to

guideline 1 is that that deals with technologies that are obtrusive versus unobtrusive. If a technology is unobtrusive, that doesn't necessarily mean that a member can use any function whatsoever on that unobtrusive technology. That function might be covered under guideline number 2. The function, for example, might be unacceptable. As a result of that, I think that with respect to both that first paragraph and the second one, it needs a better qualifier and I'm suggesting the qualifier "With respect to their unobtrusive technologies...." It reads a little bit better. Okay?

The Chair: Fine.

Mr. Sibenik: The editorial note, still sticking with that first paragraph, "Is the use of a data disk obtrusive or unobtrusive?"

The Chair: Resolved.

Mr. Sibenik: Resolved. Okay. Perhaps leave any mention there out, at least in this spot here.

Under the second paragraph, should the phrase "and other standard office applications" be added to the list?

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Ms. Mossop: I'm just curious: MPPs may use unobtrusive technological functions in the chamber, for example, e-mail, instant messaging, word processors etc. In the previous one, it said that picture-taking was not allowed. They do have those little phone cameras now where you can take pictures pretty unobtrusively. I would think that that would be something we would not want to allow.

Mr. Sibenik: That's right. Picture-taking would not be allowed as a function.

Ms. Mossop: Is that inherently clear, even though it's not mentioned in the second paragraph?

Mr. Sibenik: This second paragraph here deals with things that would be allowed. The first paragraph deals with things that would not be allowed. Picture-taking is in the unacceptable list.

The Chair: As well, nothing this committee can adopt will override the standing orders of the House, and the standing orders of the House are very specific with regard to the recording of sound and the taking of pictures.

Ms. Mossop: Okay, great.

Mr. Sibenik: So it's the addition of "other standard office applications." Do you want the Internet added to this list as well?

The Chair: No.

Mr. Sibenik: No? Take it out? Okay.

The Chair: When you say add the Internet, using the Internet is okay or using the Internet is not?

Mr. Sibenik: This is an acceptable.

The Chair: It should be an acceptable.

Mr. Sibenik: This is why I'm asking whether or not—

The Chair: I'm sorry; I misunderstood.

Interjection: It's in the second paragraph, so it's an acceptable.

Mr. Sibenik: Guideline 3 deals with temporal restrictions on portable computers. That basically means that during those four times of the day indicated by those four

bullet points, portable computers could not be used. That does not mean that other kinds of technologies could not be used; for example, PDAs. I just want to make sure the committee is aware of that.

The contrast is with guidelines 4 and 5. Those guidelines apply to all portable technologies, not just to the portable computers.

The editorial note under guideline 4: For reasons of convenience or an eyesight issue, can the technology be placed on top of books that are on MPPs' desks?

The Chair: On that topic, in discussing it with Mr. Hardeman and Mr. Bisson, we couldn't see any particular reason for requiring that it physically remain on a member's desk. My suggestion is to delete bracket (a) and just put a period after the words, "speaking aid."

Mr. Sibenik: Yes. So the Speaker would simply have to be satisfied that "the MPP is using it as a prop instead of as a speaking aid." Okay.

This next guideline deals with MPPs who are adjacent to the MPP who has the floor. I have difficulty with the use of the word "adjacent." Tonia and I are adjacent to Mr. Delaney, but if there's somebody in front of him or somebody behind him, those individuals would not be adjacent.

Mr. Miller: "Nearby," maybe?

Mr. Sibenik: I was going to suggest the use of the word, "near," if that is what the committee wants. Is the committee interested in anybody who's around the member?

Mr. Sergio: "Adjacent" doesn't mean front or back?

Mr. Sibenik: "Adjacent" usually means beside. Tonia and I are beside Mr. Delaney right now, but if there is a member over here or a member behind him, who he could possibly be distracted by—

Mr. Sergio: You can't say "near to"?

Mr. Sibenik: "Near."

The Chair: The cameras can't see the details above or below the member who has the floor, so if the words "are adjacent to" are substituted with "sit beside," would that work?

Mr. Sergio: The cameras will take anything.

Mr. Sibenik: The intent of this one is that members who are near the member who has the floor, if they're using their technology, shouldn't be disrupting the member who does have the floor. That is the idea. That disruption could happen—

Ms. Mossop: Just take out "who are adjacent" and say, "MPPs should not be using their technology to distract a speaker," regardless of where they sit in the House—anywhere in the House—if it's causing a distraction.

Mr. Sibenik: Okay, thank you. Now, on page 11, dealing with the infrastructure issues, the subcommittee at the last meeting took out the recommendation—

Interjection.

Mr. Sibenik: Yes, that would be the paragraph at the top of page 12. It's the wish of the committee that it no longer be in the report. This way, I think, the options are open for the committee.

Now, I've yet to get the actual numbers at the bottom of page 11 of the costs for power supply. There's co-ordination that has to happen between different branches to get the actual numbers, but it will be quite expensive. There are cabling considerations, there are heritage considerations, coordination between at least two branches. It's been done in other Parliaments, but it's in the hundreds of thousands of dollars to do that. I'll provide the committee with the exact numbers when they become available.

Mr. Miller: Mr. Chair, did you have some comments on—I thought you had said you had spoken with Mr. Bisson about this option.

The Chair: In the sense that in looking at this, if we're going to recommend that the Speaker consider installing AC power outlets, perhaps we could just make the recommendation; not micromanage the cost of installing the AC outlets, but pass along the recommendation to the Speaker, who is charge of the legislative precinct, to make the determination.

Ms. Mossop: I think the Chair's recommendation is sound. At first glance or take, though, I don't think it's a great direction to go in. By the time we got through all the issues and expenditures, probably technology will have gotten to the point where the batteries will be sufficient, without having to tear up our lovely old building and go to great lengths and potentially hazardous situations with cords. It all sounds terribly messy and complicated and dangerous and expensive.

Mr. Miller: I gather from what you're saying it is very expensive.

Mr. Sibenik: Yes.

Mr. Miller: You're thinking it's hundreds of thousands of dollars.

Mr. Sibenik: If the committee is looking, for example, at kind of a ballpark figure as to what the installation of AC power with a hard-wired network connection would be, it would be in excess of \$400,000.

Mr. Miller: So the hard-wired network—sorry, is that for the Internet connection or is that just for power?

Mr. Sibenik: For the network connection plus the power outlets together, it's in excess of \$400,000.

Mr. Miller: But we wouldn't need a network connection because we'd have Wi-Fi.

Mr. Sibenik: Yes.

Mr. Miller: What about just the AC then?

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Mr. Sibenik: For the AC power with the wireless network connection it would be in excess of \$200,000. If you're looking simply at the wireless network connection, that is under \$100,000.

The exact numbers I've yet—

The Chair: One hundred thousand?

Mr. Sibenik: It's under, I'm saying.

The Chair: Yes, much under.

Mr. Sibenik: Yes. It's probably in excess of \$50,000.

Mr. Miller: For the whole building?

Mr. Sibenik: That's what's under consideration right now by various branches within the Office of the Assembly, but it's not in the order of \$20,000; put it that way.

Mr. Miller: Based on your rough estimates, I don't think I'd want to recommend AC power to all the members' desks at this point. It's something that can be revisited in the future, but I wouldn't want to be recommending that as something we're directing.

The Chair: Perhaps we should leave it out of the report and, as the Speaker is responsible for the precinct, let the Speaker address that.

Mr. Miller: Sure.

Mr. Sibenik: Leave not only the recommendation but the entire discussion out?

Mr. Ernie Hardeman (Oxford): I have a real problem why we would even be discussing it. As a committee and in the process, we would be discussing whether we want lights, but how those lights are powered is not something that a politician decides; it's something that the staff or whoever, under the direction of the Speaker, would decide, how this is going to be installed. If we're talking about service, it's somebody in the service department who decides whether it should be run by independent batteries or whether it should have AC current there. I just don't think it should be in there at all. I don't think it's relevant.

The issue of wired technology as opposed to wireless technology is a technology decision, and I have to bring that forward. Maybe my colleague has already done that.

The Chair: We're just getting to that.

Mr. Hardeman: We have some members who have a concern about wireless technology, so this is not an argument or a discussion about how the Speaker should install it, but whether we, as a committee, would recommend one over the other, because there are people whose decision as to whether we should have technology in the chamber is based on that if it's wireless, they don't want it at all. So that really does go into our position on recommending that we have technology, as to whether we decide that in order to deal with that issue, we should have it hard-wired, for wired access, as opposed to wireless access. I think that's legitimate.

Mr. Miller: I don't understand the difference between wireless versus wired, except wired is a lot more expensive to install. Otherwise, maybe the Chair, who's the expert on the technology part of it, can tell us if there's any difference.

Mr. Hardeman: My colleague in particular who mentioned it believes that the radio waves from wireless are in fact hazardous to your health, and he has real concerns about putting it in the Legislature and making the Legislature less safe for the people in it than it presently is. So not agreeing with the approach, he was going to get some scientific data that is out in the system that proves that. I think that's an issue that we need to address or need to talk about and say, "Okay, we agree," or, "We disagree," because it does make a difference in my recommendation as to whether we actually have technology in there, depending on what type, whereas with AC power or battery, I don't see the—

The Chair: Before we get ahead of ourselves, are we agreed that the section regarding the power supply should be deleted?

Mr. Miller: Yes.

Ms. Mossop: I did kind of like your initial suggestion, which was to leave it in the hands of the Speaker, seeing that he's responsible for the precinct, because I think what we're setting in motion now is something that's going to take on a bit of a life of its own anyway. There's going to be some evolution here still. Do you know what I mean? If this is going to become much more standard fare, are we going to need electrical outlets? Eventually is that all going to be unobtrusively hard-wired into our desks at some point because one day we're just going to have laptops almost built in because that's the wave of the future, and/or should we assume, maybe, that portable batteries will become so much better that we won't even need that sort of hard-wiring? Do you know what I mean? There's a second-guessing of where the future of technology is going and where the future of the use of that technology is going that I'm not sure we can even answer. I kind of liked your suggestion of leaving it in the Speaker's purview.

The Chair: Would there be a problem in Ms. Mossop's suggestion that the reference to AC adapters rest with the Speaker?

Mr. Miller: That's fine by me.

Ms. Mossop: Just the plug-ins.

Mr. Hardeman: That's leaving the issue in but just saying the Speaker can decide?

Ms. Mossop: My point was—I mean, we're allowing portable laptops in and they have internal batteries now. The question is, do we want to have AC units at everybody's desk so they can now come in and plug in their laptop? I can see us all crawling around under our desks or whatever, trying to plug these in. But I think there's an evolution in technology, an evolutionary process here, that would require us to do a fair bit of second-guessing as to where this is going to lead. This is a fairly large step forward as it is, to allow these things in, so what's the next step? Does technology catch up so that the internal batteries become better and AC becomes obsolete? Or do we indeed have to do AC at some point because we're just going to have laptops on every single member's desk? That's why I'm thinking just leave it, as the Chair had suggested, in the purview of the Speaker to consider those issues as they become relevant, really.

Mr. Hardeman: I guess my position would be that we would be better served to take it right out of the report. I don't believe how they're going to be powered is relevant. I think the question is, are we going to allow laptops into the Legislature? If the Speaker, in his infinite wisdom, decides it should be hard-wired in for the AC, so be it, but I don't know why we would need any further discussion. I don't think we should even discuss it in the report as to how they're going to be powered.

Ms. Mossop: Okay, that's fine. The end result is there, I guess.

Mr. Hardeman: I think if we leave it in the way it is and just say it's in the Speaker's purview, that in fact it is a decision to be made—

Ms. Mossop: Yes. We were sort of leading him somewhere—

Mr. Hardeman: There is no decision to be made unless he wants to bring the issue up himself.

The Chair: Agreed? Agreed.

Mr. Sibenik: On page 12, dealing with network access, the fifth line, at the end of it where it says, "being able," the word "to" should go in after "able." It should read "able to access."

In the next paragraph, on network drops, again, this is a cost issue as well. As soon as I have that information, I'll supply it to the committee.

Mr. Miller: Sorry. Network drops: Is that what you're talking about?

Mr. Sibenik: Yes.

The Chair: Ethernet access.

Mr. Sibenik: Does the committee wish to further instruct me on that?

Mr. Miller: Chair, do you have some feeling about this?

The Chair: If you wish to make it technically correct, you can say "wired Ethernet access."

Mr. Miller: Does it make sense to get prices on this?

Mr. Sibenik: Well, we are in the process of getting that, if the committee wants it, yes, and I'll supply that as well.

In section (c), wireless access points, I didn't have anything in that except at the end, the numbers for that. There are a number of issues associated with—it's not just a question of installing the actual access points. There are things that have to go in there, like environmental assessment, design fees, core drilling and wall repairs that have to occur as well, so that's why some of the costs do tend to bump up. It's not just the actual equipment that LIS would be installing there. As soon as I have a hard number, I will supply that to the committee.

Those are all my issues.

Mr. Miller: On the estimate of numbers, do you get one price or do you get it from a few companies, or how does that work? Is there a set procedure for that?

Mr. Sibenik: These estimates would be supplied by the different branches that have expertise in estimating. I'm not sure what their process is. They may well have estimators on staff, and they engage in these kinds of activities.

1620

Mr. Miller: It's an estimate, so if you actually went to do the work, I assume there's a tendering process at that point, where you get three tenders so you have a competitive price.

Mr. Sibenik: I'm not familiar with the tendering process of the individual branches, but there is a protocol. Perhaps the next time the committee meets I can find out that information and supply it to the committee.

The Chair: Further discussion on the report?

Mr. Hardeman: Mr. Chairman, this is where I want to put on the record the concern about the wired and the wireless, the concerns expressed by—

The Chair: The member has in fact come to speak to me about the same thing. Would it be acceptable if we ask our researcher to see whether there is any reputable body of evidence that suggests if there is any effect at all with regard to a Wi-Fi access point? Would that be acceptable to you?

Mr. Hardeman: That would suit me really well. Thank you very much.

Mr. Tim Peterson (Mississauga South): Bob, would you repeat that?

The Chair: I asked if the researcher would examine to see whether there is any reputable body of evidence that indicates any effect whatsoever on health with regard to the installation of a Wi-Fi access point.

Mr. Sibenik: There have been a number of reports in the press about the very issue that the member raised. The reports come in the wake of announcements by the head of Lakehead University in Thunder Bay banning wireless access points in that particular institution because the head there is concerned about the health and safety issues. The second issue is the Toronto Hydro announcement about wireless access on the top of telephone poles. In the wake of that announcement there was a rehash of some of the health and safety issues.

I will provide the report for the committee, but ultimately the science is disputed on the health and safety issues. There are people on both sides of the issue, and I will present for the committee the complete package so that the committee is in a position to make a decision on this.

Mr. Hardeman: I do want to say I don't personally have any evidence or any concern, for that matter, but I think it's important that—you mentioned Lakehead University. That's where the original concern came from. I think it's important that we at least look into that so that as a committee making the recommendation for wireless we understand that there are concerns by some, even though we do not necessarily agree with that position. I think if it's on the record that we are getting that information, that will serve the purpose as to why I brought it up.

The Chair: To put it in perspective, my iPAQ, which does not transmit but only receives—if I were to stick this iPAQ out the window, it would detect the presence of several Wi-Fi wireless networks already installed in this area. Would it be acceptable to allow the Speaker to make this particular determination, subject to the research provided?

Mr. Hardeman: I don't have any problem with leaving it the way it is, with the information provided. I think it's important that we get the information for the decision to be made. At the end of the day, the Speaker is going to have to make a decision about whether he adopts our report based on the opposition that someone will put forward to it. I think we do our best and make

sure all the information is available to the decision-makers beyond where we decide.

The Chair: Further discussion on the report or the pricing?

Mr. Hardeman: On the whole report?

The Chair: On any part of the report or on the pricing.

Mr. Hardeman: The other thing I'd like to suggest—as we presented it to our caucuses it was brought up, and there was some discussion at the previous committee meeting too—is about the different types of equipment that would be on people's desk and the Speaker could decide whether the computer was too big and was obstructing someone else's view and so forth. It was suggested by my caucus, because of the inability to increase one individual member's budget, that as we bring this forward, to be equal and fair to everyone and have consistent equipment for everyone, we should recommend to the Speaker that the Legislative Assembly provide the units that everyone uses in the Legislature. They would still be individual units for the members, but in fact every one that was in the Legislature would be an identical unit. The Speaker could then decide what type of unit that would be, or the administration could decide that, and it would then be, as your telephone is—incidentally the telephone structure has been changed in the last two years. Where it used to be part of the member's global budget, it is now part of the Legislative Assembly budget in order to deal with the rising cost of running our individual offices. This would be the same thing. Not everyone is presently going to have a laptop that would meet the requirements in the House, so they would be expected to provide one of their own.

Some of my caucus members recommended that we make a recommendation to the Board of Internal Economy that they look into buying and providing an individual unit for every member of the Legislature as part of your Legislative Assembly equipment.

Mr. Sergio: I have one request: There are some members who may not want to use it—

The Chair: Just to clarify, to see if I understand Mr. Hardeman's suggestion: You're suggesting that we ask the Speaker that the Legislative Assembly assume responsibility for the provision of notebooks and laptops, but that the lack of that should not prevent members who already have technology from being able to use it in the House, pursuant to the adoption of this report?

Mr. Hardeman: My position would be that the two are completely unlinked. This would be a recommendation in the report, and the Speaker is not going to be obligated to implement the report in its entirety or accept parts of it. I see no reason why the Speaker couldn't just continue on and implement the report as he saw fit, but the Board of Internal Economy decide not to provide them and then each would have to provide their own.

I believe it is in the purview of this committee to recommend to the Board of Internal Economy that they look at providing a uniform equipment allowance for the Legislative Assembly, partly for the members' budgets

but primarily to make sure we have a uniform look in the Legislature, that everybody has the same thing on their desk and we don't have one that's much larger than someone else's and obstructing their neighbour's view and then having the Speaker rule that I can't use the one I just bought and paid big dollars for because it has too large a screen and it's obstructing the person behind me. Everyone would have the same equipment in the Legislature.

The Chair: Okay. Again, for clarification before I go to Mr. Sergio, are you proposing that this be the third recommendation in the report?

Mr. Hardeman: Yes.

The Chair: Okay. Mr. Sergio, and then Mr. Miller.

Mr. Sergio: I have no problem with uniformity. The problem is that some members may not want to use any of the technologies in the House. We should not go to the expense of buying it and then let it sit on some desk. I believe we should approve it, and if they want it, they should make a request.

The Chair: Mr. Miller? No problem? Okay.

Mr. Sibenik: Could I just clarify what would be uniform: the actual equipment or the allowance?

Mr. Hardeman: The equipment.

Mr. Sibenik: The equipment would be uniform. Thank you.

Mr. Miller: Mr. Chair, you being the technology expert among us, I'd like to get your feeling about it. It would be my feeling that probably people would have different preferences of what sort of equipment they might want, so uniformity doesn't necessarily make things better. You might want to use an iBook, and somebody else might want to use something else and may already have it.

The Chair: What I hear Mr. Hardeman suggesting isn't that the Speaker should say, "You'll use this specific brand name and this specific model," but that the Speaker can say, "You can use a tablet, as currently defined by industry standards, a laptop, as currently defined by industry standards." Is that correct?

Mr. Hardeman: My recommendation is not near as elaborate or precise as that. I think that the technology we're recommending be allowed would be provided by the Legislative Assembly and the budget that runs it, not by my global budget from my constituency office, period.

Mr. Miller: What about choice of type of device? Would that be up to the member?

Mr. Hardeman: I think it's up to the Speaker to decide how they want to deal with that. The Board of Internal Economy makes that decision, not our committee.

1630

Mr. Sergio: So you're leaving uniformity out now?

Mr. Hardeman: No, I think it should be uniform, but then again, I don't profess to understand what the Board of Internal Economy will do, whether they would buy everybody an identical tablet or whether they would put stipulations on what they needed to buy and they get the

money for it. I just say it shouldn't be part of my or anyone's global budget. If this is a tool that I need in the Legislative Assembly—my office budget already has considerable difficulty making sure that we make ends meet, with the constituency offices I'm running now, without getting increases in that. If we're suggesting we're going to have more expenses, we should ask the Board of Internal Economy to cover those.

The Chair: Are you considering a recommendation with words such as "the Speaker should consider" and "the Speaker may recommend" and giving the Speaker some discretion in this regard, for the purposes of clarification?

Mr. Hardeman: I don't believe we have any choice but to give the Speaker the discretionary power to ask or not to ask the Board of Internal Economy to pay for them. It's that simple. We don't have the power to tell them they have to, nor do I want to suggest that if they decide not to pay, that should throw out the whole report. I'm just saying that as a group, we should recommend that that's how they should do it, that the Board of Internal Economy should put money in place in order to facilitate this recommendation.

The Chair: Are you comfortable with the researcher drafting that recommendation pursuant to our comments and making it the third recommendation?

Mr. Hardeman: Yes.

The Chair: Is there any further discussion on this third recommendation? Do we need to vote on it?

Mr. Sibenik: I think we need to get the precise wording on this. I can work on it and pass it by the committee or the subcommittee for approval, if that's the wish of the committee, but I think we do need some precise wording here, unless somebody is prepared to actually say what the wording should be in this case.

The Chair: Is the committee willing to give the subcommittee the authority to approve the third recommendation pursuant to the discussion here today?

Mr. Miller: The only thing I'd like to be clear about from my perspective is, I don't think the devices need to be uniform. I think what Mr. Hardeman is raising is that the funding should not come out of the members' global budgets. I think that's the main point he's making. I would like to see the choice of the type of technology be up to the members, especially because in many cases—I'm sure in your case, you won't need to buy any device. You probably have half a dozen of them already. In my case, I would probably want one device that I'm going to carry with me and use in the Legislative Assembly, in my riding and in my apartment, and the fewer devices I have the better, as far as I'm concerned. So it may not be necessary to buy another one. I think the main point Mr. Hardeman is making is that the funding for it should come not from members' global budgets but from the Legislative Assembly budget. The main point that I'd

like to make is that I don't want to see it uniform in terms of the choice of technology.

Mr. Hardeman: Personally, I believe there are some positives to uniformity, so we don't have the issue of big and small and one is allowed and one isn't. I guess I would suggest that those of us who have sufficient capacity today to implement this without making an extra expenditure will, I am sure, before it's implemented, have traded or changed some of their equipment already, because new technology has moved in. Even in our constituency office, every time you turn around, somebody is there putting in more technology and changing the way things happen, because we advance. I'm not suggesting that everybody who presently has a laptop that could be used for it—in fact, I have likely more than one that I could use for that purpose. I'm sure if there's an allotment and they say, "This allotment is to buy laptops that you can use in the Legislature. You can use them anywhere you want and you can buy them when you need to," most members in their term of office, even if it's the first term of office, will replace the one they're using now with another one that's going to be paid for by the Legislative Assembly. I really believe that the intent of this is just to make sure that the cost of implementing this program does not fall on the global budgets of the individual members but in fact is a cost to the overall Legislative Assembly.

The Chair: It sounds to me like you may have to take yes for an answer. Further discussion on Mr. Hardeman's proposal? Mr. Hardeman, would you be comfortable with the subcommittee, on which you sit, evaluating the wording from the researcher and having the authority to add this? Any problem with that? Okay.

Any further discussion on the report?

Mr. Sibenik: I don't have a question, just one clarification on the health issue, for example. The committee does not want me to leave a footprint in the report as of yet, pending its consideration of the materials that I'm going to get them on this potential health issue. Is that correct? No reference whatsoever, and the subcommittee can decide on that as well as the rest of the report? Okay. I understand.

The Chair: Shall the title of the report be "Report on the Members' Use of Portable Technologies in the Legislative Precinct"? Agreed.

Shall the draft report, as amended, and subject to the final approval of the third recommendation by the subcommittee, be adopted? Agreed.

Shall I present the report to the Speaker once approved? Okay.

I think we're done. Once the subcommittee report has been approved and presented to the Speaker, this matter is complete.

Please be advised that we'll meet next week to consider Bill 190. We're adjourned.

The committee adjourned at 1637.

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**Assemblée législative
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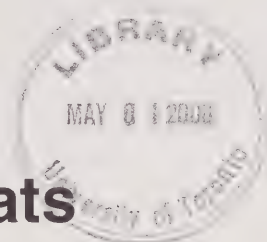
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 20 April 2006

Jeudi 20 avril 2006

The committee met at 1534 in committee room 1.

GOOD GOVERNMENT ACT, 2006

LOI DE 2006

SUR LA SAINE GESTION PUBLIQUE

Consideration of Bill 190, An Act to promote good government by amending or repealing certain Acts and by enacting one new Act / Projet de loi 190, Loi visant à promouvoir une saine gestion publique en modifiant ou en abrogeant certaines lois et en édictant une nouvelle loi.

The Chair (Mr. Bob Delaney): Let's call this committee meeting to order. This is the standing committee on the Legislative Assembly. We're here to consider Bill 190, An Act to promote good government by amending or repealing certain Acts and by enacting one new Act.

Mr. Peter Kormos (Niagara Centre): On a point of order, Mr. Chair: There are, as you know, a copious number of government amendments and NDP amendments which were drafted in co-operation with the government and in fact by the government. I don't know whether the Conservatives have amendments. But I really would ask for unanimous consent to have a legislative researcher from the caucus, Elliott Anderson, sit beside me so that we can do this in as orderly and prompt a manner as possible. Otherwise, I'll be fumbling papers and we'll be here till midnight.

The Chair: Do we have unanimous consent?

Mr. Mario Sergio (York West): Agreed.

The Chair: Agreed.

Mr. Kormos: Thank you, folks.

ONTARIO SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS

The Chair: Our first presentation today is the Ontario Society for the Prevention of Cruelty to Animals. Judy Marshall and Mike Draper, come on up. The procedure is really fairly simple and straightforward. Begin by stating your names for the purposes of Hansard. You'll have 20 minutes to present to us today. Should you not use your entire time, that portion of the time that remains will be divided among the three caucuses to ask you questions. Welcome to the committee. Please proceed at your leisure.

Mr. Michael Draper: Thank you, Mr. Chairman and committee members, for allowing us to be here. My name is Michael Draper. I'm the chief inspector of the Ontario SPCA. Beside me is Judy Marshall, our chief executive officer. I have a presentation that I did hand out earlier that you should all have a copy of, just to read off of.

Mr. Sergio: We do.

Mr. Draper: First, I just want to talk for a few minutes about the Ontario SPCA and what we are, to give you an introduction. I'm not sure if everyone here is aware of what our organization is and how we operate. We're a provincial charitable organization, formed in 1873, actually, so we've been around quite a long time. We have a legislative mandate to investigate animal cruelty across Ontario. We're a non-profit charitable organization dedicated to the protection of all animals. We operate through a branch structure, where we have 27 branches operating across Ontario, and 31 humane societies that are affiliated with us to enjoy investigative powers. Under the Ontario SPCA Act, which is Ontario's animal protection legislation, our investigators have police powers to enforce the act, as well as the Criminal Code and any other law or act in Ontario related to the welfare of animals.

On the next page, to give you an idea of how much work we do through our investigations department, I have some statistics for 2004. Unfortunately, 2005 is just being audited now. We investigated almost 16,000 complaints of cruelty and neglect in Ontario in 2004; issued 2,252 orders essentially forcing an owner to comply and provide medical treatment, housing or food for their animals; seized over 7,000 animals; had over 1,500 animals surrendered to our investigators; and laid 695 provincial and criminal charges.

The reason I'm here today to speak to you is that the Good Government Act has amendments to the Ontario SPCA Act in it. My understanding of the goal of the Good Government Act is that it is to improve effectiveness and efficiency through legislative reform. The Ontario SPCA strongly supports the amendments currently in Bill 190. That includes a provision related to our search warrants, allowing us to take more than one investigator or more than one veterinarian, as well as persons other than veterinarians, on to a property to affect a proper search warrant. For example, in a large puppy mill case, we may need additional drivers; in livestock cases, livestock haulers; and that will allow that.

It also assists us by clarifying a five-day rule which is in the act. It sets out time limits. Currently, the five days could be interpreted to include weekends; now it will state five business days.

The last amendment that really helps us is, if we take action and remove a neglected animal from its owner, they can appeal to an independent tribunal. Through that, they simply need to write a letter to the Animal Care Review Board that says—the provisions related to that currently are very vague. This will clarify that they have to have reasons for the appeal stated in their appeal, to understand the nature of what they're appealing.

Unfortunately, what the act doesn't do, and what we're really here today to talk about, is that if this is a government bill to increase effectiveness and efficiency through legislative reform, we need some further amendments to the Ontario SPCA Act, which is Ontario's animal protection legislation, to really protect animals in this province. The additional amendments that the Ontario SPCA is requesting are consistent with other acts in Ontario, such as environmental legislation, labour legislation, agricultural legislation, as well as acts across Canada and other animal protection acts. Ontario has the weakest provincial law protecting animals in this country. Actually, the Yukon has a stronger piece of animal protection legislation than Ontario does.

1540

On the next page: What I want to talk to you about today are four simple considerations for this committee to better protect animals in this province. I realize you can't redraft our legislation, but I'm hoping you can consider some further amendments to really strengthen our ability to protect animals, make us more effective, as well as cut some of our costs.

The first is making it an offence to fail to comply with an inspector's order. Currently what happens in Ontario is that we can issue an order to compel an owner to provide, for example, medical treatment if the dog has a broken leg. Unfortunately, there's no offence if they fail to comply with that order. We can remove the animal to provide it medical care, but we can't hold the owner accountable for their actions in failing to take that action. Commonly, in legislation such as environmental legislation or health or labour legislation, it's an actual offence to fail to comply with an inspector's order. This would do a great deal of good for us and animals across Ontario.

The second thing I'm asking you to consider is an offence for obstructing an inspector; the third is amending the section in the act that protects dogs and cats in puppy mills, essentially breeding operations and expanding that to all dogs and cats; and lastly, a property tax relief exemption, essentially extending our property tax relief exemption to all of our affiliated humane societies in Ontario that are struggling financially right now.

I thought I would go through each one of these in more detail. The first recommendation we are asking you to consider is the failure to comply with an order: Make it an offence to fail to comply with an order. The Ontario

SPCA Act is the only act in Ontario that does not make failure to comply with an inspector's order some type of offence. It's very frustrating for our inspectors to go out there on a day-to-day basis and see neglected animals and not be able to hold people accountable. It's a revolving door: We remove the animal; they simply get a new one. We want to hold owners accountable for their actions when we issue an order for medical treatment so that they actually follow that order.

Creating an offence also encourages compliance. This will result in fewer animals removed by the society and a reduction in costs related to animal care to the society's budget. We're a non-profit, charitable organization. Although we're given a legislative mandate to protect animals in this province, we're only given \$119,000 a year by the province to do our job across Ontario. Therefore, by doing this you'll make us—

Mr. Kormos: Sorry, I didn't hear that. How much?

Mr. Draper: It's \$119,000 a year to provide animal protection services. That's for training our inspectors and agents, and for support.

Mr. Norm Miller (Parry Sound-Muskoka): Is that for the whole province?

Mr. Draper: That's correct.

Ms. Judy Marshall: That includes our affiliates as well. So for the \$119,000, we have to include training with our affiliates.

Mr. Draper: Yes. For that \$119,000, we provide training and support to all of our investigators as well as our affiliated humane society investigators. That would include Toronto Humane Society, London Humane Society, Windsor etc. So I'm really asking you to do something that every other piece of legislation currently does.

The second recommendation: It's critically important to protect our inspectors. In the last 18 months, our inspectors have been assaulted 36 times. I'm asking you to create an offence for obstructing an inspector. It's a dangerous world out there, and I'm asking you to make it an offence to obstruct our inspectors in the course of their duties. When we're executing search warrants, even though we have the police there, people are very ignorant sometimes and won't allow us to protect those animals. It's a very difficult job for our inspectors, and they do a great job. But if they're obstructed in doing their duties, and there's no offence and nothing we can do, the owner can simply say, "No, you can't come on. No, I'm not helping you. No, you're not coming into the barn." I'm asking you to consider making it an offence, like every other provincial act that employs inspectors, to obstruct those inspectors.

The third consideration: I'm asking you to really provide protection to all dogs and cats in Ontario. We have an amendment that went into place in 2002 related to dogs and cats kept for breeding or sale. As you may realize, that was to address the puppy mill problem, but the difficulty is that it's very difficult to prove that an animal is being bred and sold; it's a difficult standard of proof. We can prove the neglect, but we can't prove the standard for breeding for sale very often.

Dogs and cats—really, all animals, but today I'm only asking about dogs and cats—should be provided with an adequate standard of care in this province. It should be an offence to not provide veterinary medical care, to provide inadequate shelter and an animal freezes to death. None of those things are currently an offence in Ontario. Every other province actually has offences in their provincial animal protection legislation to do just that. This would be an easy change, essentially deleting some wording from the act to provide a much broader scope of animal protection in Ontario.

You can't imagine the amount of cruelty we see every day, and it's very, very frustrating. We seem to see a revolving door of repeat offenders. With the weakest law in the country, I'm quite jealous of Alberta or British Columbia, which have much stronger statutes that can take action in many of these cases where we can't.

The last recommendation I'm asking you for is something that our chief executive officer is going to speak to.

Ms. Marshall: Thank you, Mike. Recommendation 4 is a property tax exemption for the affiliated humane societies. Currently, the Ontario SPCA does have tax exemption from our property tax. Two years ago, we were paying corporate tax; we are now paying residential taxes. We did work with MPAC through the Ministry of Community Safety and Correctional Services and did get that tax exemption.

If you can realize, all of our organizations—our 27 branches and our 31 affiliated organizations—run their organizations by fundraising and depend on legacy dollars. What we were doing was taking that money from our donors and actually paying taxes to the government. That has really made a difference in terms of our budgeting process. Now we'd like to extend that request for tax exemption to our affiliated organizations as well.

Mr. Draper: Today, in summary, the amendments we're asking for are in many ways things that have already gone on for years in many other pieces of legislation in this province. Our act, the Ontario SPCA act, hasn't been substantially updated since 1969. These amendments would allow us to be more effective at protecting animals in this province. It will reduce costs to the Ontario SPCA by increasing compliance as well as reducing property taxes to our affiliated humane societies, and it will ensure that animals in Ontario receive the same or a similar level of protection as in other provinces.

Unfortunately—and I may well be criticized for this—I did put some pictures in here just to give you a sense of what our investigators see every day. I don't know how to express it without putting these in. You have to realize that the amount of cruelty we see on a daily basis is phenomenal. These are cases from only one inspector's case book, not ones that I had to look far for—some pretty serious cases. Many of these we can't act on very easily.

The Criminal Code, which we can lay out charges from, was written in 1892. The federal government has indicated that they're not willing to amend the Criminal

Code to provide better protection for animals. Because of that, since 1998, almost all the other provinces have increased the level of animal protection through provincial legislation.

Our act has been around since 1919. We really need some of these amendments to go through to help animals in Ontario. We're not asking you for a substantial redraft; just give us some abilities that other provincial inspectors have to address serious animal welfare issues in this province.

Thank you very much. I appreciate your time today.

The Chair: Thank you very much for coming in. We do have some time remaining for questions, about two and a half minutes a side, beginning with Mr. Miller.

Mr. Miller: Thank you very much for your presentation. Your recommendations look fairly reasonable to me. On the one that deals with property tax, I would want to know whether the municipalities have had any input on that one, because they probably would not be in favour if it means they're going to lose property tax dollars. Unless I had some assurance of how municipalities feel about it, then I wouldn't want to make a decision on the spot about it. The others, to me, at first glance, seem fairly reasonable. I don't know whether the government has had a chance to look at those and decide whether they're going to support them, because it will inevitably be the government that will decide whether those amendments will pass, me being but one vote over here on the opposition side.

1550

Mr. Draper: I don't think the municipalities individually have all been consulted, no. I guess our line on this one is that most other charities are exempted through—and I don't recall the name of the legislation that relates to all property tax. Unfortunately, humane societies don't really fall within there, for some reason. So this would be something that municipalities are used to because most other charities such as churches and other groups that have property don't pay these types of taxes to begin with.

Mr. Miller: Sorry, I only have two and a half minutes. Would there be another way of helping your financial situation? I gather that—

Ms. Marshall: There are many ways.

Mr. Miller: I gather that you've had an increased burden because of the passing of the Dog Owners' Liability Act. I sat in on the hearings, and the OSPCA people were generally not supportive of the bill and concerned with extra work to do and extra costs. It's early going, I guess, but is that happening? Is it providing extra costs? Instead of putting the burden on municipalities, obviously if the province funded you to take the responsibility for the extra work they're asking you to do by legislation that the government just passed, it might make sense as well.

Ms. Marshall: Interesting comment. I'm trying to think of the best way to address this. A lot of the affiliates are actually working with the municipalities to try to get their taxes changed, but we do need the support

from the bigger body. Funding: Not only are we getting pressure due to the Dog Owners' Liability Act, we are, in turn, increasing our marketing, increasing our fund development, and every time we do that, there is another reaction from the public—they know about us—so then, of course, our costs go up. So it doesn't matter what we do, we're constantly defeated. We increase our marketing, our investigators get busier, but we don't have enough money to actually go out and hire additional inspectors and additional investigators because—we don't have that money. We're currently operating in a deficit position almost annually.

The Chair: Thank you.

Mr. Miller: Chair, are we that tight for time this afternoon?

The Chair: Yes. Mr. Kormos.

Mr. Kormos: Thank you very much, Ms. Marshall and Inspector Draper, for coming in today. You are the only affected body to have pored over this omnibus bill and identified amendments that are relevant to the work that you do, so I appreciate very much the work that you did getting there.

"Offence for failing to comply with an inspector's order": You said Alberta and BC have those offences?

Mr. Draper: We're the only province that has an order system; the rest have a general offence. If you allow your animal to be in distress, it creates an offence. We're not asking you to go down that further step. We're asking, if your animal is in distress and we go out and say, "Take it to a veterinarian," and you still don't, to make that an offence. It's one step apart from making allowing your animal to be in distress an offence.

Mr. Kormos: So it's not a judicial order, it's the direction of the inspector.

Mr. Draper: It's the direction, that's right. That's similar to the Environmental Protection Act or the Health Protection and Promotion Act.

Mr. Kormos: You've referred to "society investigators have police powers to enforce the act." Are you peace officers?

Mr. Draper: Yes, we are.

Mr. Kormos: So this is when you get down to "Offence for obstructing agent/inspector." Would an obstruction of you be tantamount to a Criminal Code obstruction of a police officer?

Mr. Draper: Yes and no. We've charged for obstruction before and have a conviction—

Mr. Kormos: Under the code?

Mr. Draper: —under the code. But the difficulty is really the interpretation by the crown. We have to be essentially enforcing the code, and if we're doing something under the act, the crown attorneys aren't really interested in prosecuting that as an obstruction. We've had that a lot in the past. This would clarify that and make it a provincial offence—

Mr. Kormos: Real fast, from a practical, pragmatic point of view, what constitutes an obstruction? Give us an example, real fast.

The Chair: I have to cut you off on that. Mrs. Van Bommel.

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex): Actually, I'd like to carry on with the obstruction question.

The Chair: Absolutely; go ahead.

Mrs. Van Bommel: I see here that it says, "while the agent or inspector is acting in the course of his or her duties," and you brought up farms and barns, but I see no mention here of biosecurity. So if a farmer were to stop you, obstruct you from entering his barn because he has concerns about his biosecurity practices, are you prepared to deal with those? Who's going to define the biosecurity, that the practices are satisfactory, and who assumes liability in the event that disease does enter the barn and you basically wipe out a herd or a flock?

Mr. Draper: We're certainly very cognizant of biosecurity. We have a standing order, which is a provincial policy related to biosecurity on farms. We've received training from the Ontario Ministry of Agriculture and Food and have consulted others. We're certainly very cognizant of concerns related to biosecurity on farms.

As well, unfortunately, if we did something negligent, certainly we'd be on the hook for it, I would admit that, yes, if we were acting irresponsibly. But we do have a biosecurity policy related to farms, as well as other animal endeavours that may need biosecurity. So we do have a policy, and we've received training from OMAF. Actually, every year OMAF sponsors two training courses on farm animals for us, a component of which is biosecurity. So we work very closely with the Ontario Ministry of Agriculture and Food's livestock technology division related to issues like that.

Mrs. Van Bommel: Thank you.

The Chair: Mr. Racco? No questions? Okay.

That concludes the time we have for your deputation. I want to thank you very much for coming in and for your very thoughtful deputation. You're welcome to stay for the balance of the committee's deliberation.

Mr. Draper: Thank you very much.

The Chair: David?

Mr. David Zimmer (Willowdale): Mr. Chair, I understand that our colleague Mr. Kormos asked for unanimous consent that he could have one of his assistants sit at the table to help this committee work through, and I'd like to do the same.

Mr. Kormos: As you should too, Mr. Zimmer.

The Chair: Do we have unanimous consent? Agreed.

Mr. Kormos: For the same obvious reasons as I wanted my assistant sitting beside me.

Mr. Zimmer: It will make things go much faster. This is Shawn Knights, my executive assistant.

Mr. Kormos: This is Elliot Anderson, member of OPSEU, and of course our research staff.

The Chair: As long as he's sitting there in his capacity as your researcher.

Mr. Kormos: With seniority rights, with guaranteed vacations, vacation pay, generous benefits—

The Chair: Thank you.

Prior to moving into clause-by-clause consideration, do we have unanimous consent to defer consideration of sections 1, 2 and 3 in order to consider the schedules of the bill? Agreed.

Mr. Zimmer: Mr. Chair, I have with me, from the Ministry of the Attorney General, John Gregory. I would ask him to sit at this table. He can give us technical assistance, if required, as we work our way through these matters.

The Chair: Thank you very much. Welcome, Mr. Gregory.

Are there any questions, comments or amendments to any section of the bill, and if so, to which section? Let's start with Mr. Miller.

Mr. Miller: I'd just like to ask about the amendments that were just recommended by the Ontario Society for the Prevention of Cruelty to Animals. I'm wondering if the government is giving consideration to any of these amendments and if they will be supporting them.

Mr. Zimmer: I wouldn't mind about a five-minute break just to organize my thoughts on that, if I could.

The Chair: Do we have agreement for a five-minute recess?

Mr. Zimmer: Not more than five.

The Chair: Not more than five. It now being one minute before 4, this committee will recess for precisely five minutes.

Mr. Zimmer: Thank you.

The committee recessed from 1600 to 1604.

The Chair: The committee will come back to order.
Mr. Zimmer.

Mr. Zimmer: These matters were just brought to everybody's attention this afternoon, just now as we heard them. We'd like an opportunity to think it through and see just what we want to do here. Having said that, and without making any commitments, on the first blush we see some merit in a number of these matters. So what's the process to potentially deal with these amendments later? We can't deal with them today, just technically. We're just not in a position to deal with the language and so on and so forth.

The Chair: The clerk advises that our alternatives are to move forward with consideration of the schedules and sections that don't deal with the proposed amendments and stand down those sections that do until a later date, or to postpone consideration of the bill until a later date.

Mr. Zimmer: Let's move ahead.

Mr. Kormos: The House leader's office may want to interrupt and whisper in your ear.

Mr. Zimmer: Let's deal with the bill today and we'll deal with these matters that you've raised, Mr. Miller, at a later time. But I assure you that we will do so.

Mr. Kormos: To be fair, we could always agree to get the bill into committee of the whole House for a period of time, should there be an interest in cleaning up things further. I should tell you it's our position, and I understand from my colleague the government House leader that, yes, if there's any further cleanup, we'll take care of

it in due course down the road. But I think Mr. Zimmer has received wise counsel.

The Chair: Shall we then go back to the original question: comments, questions and amendments to any section of the bill, and if so, to what section?

Mr. Zimmer: Can I move government motion 1? Everybody has that?

I move that the title to schedule A to the bill be struck out and the following substituted:

"Schedule A

"Ministry of Agriculture, Food and Rural Affairs."

The Chair: All in favour? Carried.

Mr. Zimmer: Government motion 2:

I move that the definition of "tribunal" in subsection 1(1) of the Commodity Board Members Act, as set out in subsection 4(1) of schedule A to the bill, be struck out and the following substituted:

"'Tribunal' means the Agriculture, Food and Rural Affairs Appeal Tribunal continued under the Ministry of Agriculture, Food and Rural Affairs Act. ('Tribunal')"

The Chair: Before we move just slightly out of order: Shall the title of schedule A, as amended, carry? Mr. Zimmer's last motion was to change the title of schedule A.

Mr. Kormos: If I may, we're going to approve the title before we've approved the balance of the schedule? The title has been amended. It seems to me then—that's interesting. I take your counsel, Chair. This is a novel situation because the title is amended. It's not like the title of a bill, which as you know, when we go through a bill process—

Mr. Sergio: We already did. Motion 1 deals with that, which has been approved. So I think we should go through all the other motions and then approve everything as amended.

Mr. Kormos: Don't challenge the Chair.

Mr. Sergio: I'm just saying—

Mr. Kormos: I'm trying to protect the Chair's integrity.

Mr. Sergio: Yes. I think that's normally the way we do it.

The Chair: The clerk advises that there is no procedural reason that the title of schedule A, as amended, could not carry. So we've amended the title. Shall the title of schedule A, as amended, carry? Carried.

Shall section 1, section 2 and section 3 of schedule A carry? Carried.

1610

Mr. Zimmer: I think I dealt with government motion 2. Do you want me to read it again?

The Chair: Please do.

Mr. Zimmer: I move that the definition of "tribunal" in subsection 1(1) of the Commodity Board Members Act, as set out in subsection 4(1) of schedule A to the bill, be struck out and the following substituted:

"'Tribunal' means the Agricultural, Food and Rural Affairs Appeal Tribunal continued under the Ministry of Agriculture, Food and Rural Affairs Act. ('Tribunal')"

The Chair: Shall the amendment carry? Carried.

Mr. Zimmer: Government motion 3—

The Chair: Before you go, shall section 4 of schedule A, as amended, carry? Carried.

Shall sections 5 through 8—

Mr. Kormos: A moment, please. I request that section 5 be addressed alone, without the inclusion of section 6.

The Chair: Would you wish to address section 5 at this time?

Mr. Kormos: I urge people, when section 5 is called for a vote, to reject section 5, subsections (1) and (2).

The Chair: Shall section 5 of schedule A carry? All those in favour of section 5 of schedule A?

Mr. Kormos: Recorded vote.

Mr. Zimmer: Hold it. If you play around like this, we'll be here forever.

Mr. Kormos: I'm not the one who said, "Carried." Please. Discipline.

The Chair: All those in favour of section—

Mr. Miller: Could we have an explanation of why Mr. Kormos wants to vote against this section?

Mr. Kormos: Yes. It's repugnant and objectionable and contrary to good policy.

The Chair: All those in favour of section 5 of schedule A? All those opposed? Section 5 of schedule A is defeated.

Shall section 6 of schedule A carry? Carried.

Shall section 7 and section 8 of schedule A carry?

Mr. Kormos: No. One moment, please. I'm suggesting that section 7 be dealt with alone.

The Chair: Shall section 7 carry? Carried.

Shall section 8 carry? Section 8 is defeated.

Section 9 of schedule A: Questions, comments or amendments?

Mr. Zimmer: I move that the definition of "local board" in subsection 21(1) of the Farm Products Marketing Act, as set out in subsection 9(3) of schedule A to the bill, be struck out and following substituted:

"local board" means the Egg Board Farmers of Ontario; ('commission locale')"

The Chair: Just as a question of clarification, do you mean Egg Board Farmers of Ontario or Egg Farmers of Ontario?

Mr. Zimmer: Egg Farmers of Ontario.

The Chair: Thank you.

Shall the amendment carry? Carried.

Shall section 9 of schedule A, as amended, carry? Carried.

Shall section 10 of schedule A carry? Carried.

May I ask for block consideration of sections 11 through 16?

Mr. Kormos: No, sir. It's 11, 12 and 13.

The Chair: Shall sections 11, 12 and 13 of schedule A carry? Carried.

Is there any comment, debate or amendment on section 14?

Mr. Kormos: I move that subsections 14(1) to (9) of schedule A to the bill be struck out.

The Chair: Comments, questions and debate on Mr. Kormos's motion?

Mr. Miller: Could we get some explanation on what those subsections are about and why he wants them struck out?

Mr. Kormos: Of course. Those are subsections dealing with the Livestock Medicines Act, and the subsections, as proposed in the government's bill, are contrary to good public policy.

Mr. Miller: Could we have an explanation from the Ministry of Natural Resources or some staff?

The Chair: Would staff care to comment?

Mr. John Gregory: We did not bring staff from every ministry on this because we had expected to proceed relatively smoothly. At my discussions with the Ministry of Agriculture, frankly, they did not know, at the staff level, what was objectionable to the NDP about the provisions in this act that were proposed. There are some where we can guess; this one, no one at Agriculture was able to guess what the objection was. Sorry.

The Chair: Further comment, discussion or debate on the amendment? Shall the amendment carry? Carried.

Shall section 14 of schedule—

Mr. Kormos: I have a motion.

The Chair: Are there further comments, questions or amendments to section 14?

Mr. Kormos: I move that subsections 14(14) to (17) of schedule A to the bill be struck out.

The Chair: Are there any comments, questions or debate on the amendment?

Mr. Miller: Yes. An explanation about what these subsections are about. Since the government seems to be supporting these amendments being put forward by the NDP, if they can give some explanation as well, that would be appreciated.

Mr. Gregory: Again, the Minister of Agriculture was unable to give an explanation of what was objectionable about these provisions.

The Chair: Legislative counsel wishes a chance to comment on this.

Mr. Michael J.B. Wood: There is a further explanation provided in the explanatory note to the bill as to what the schedule—

Interjection: Sorry, I can't hear you.

Mr. Wood: There is a further explanation provided in the explanatory note to the bill as to what these amendments would do, so by defeating the amendments we don't make them and we leave the Livestock Medicines Act as it is presently in force in its present state.

The Chair: Further discussion? Shall the amendment carry? Carried.

Shall section 14 of schedule A, as amended, carry? Carried.

Are there any questions, comments or amendments to section 15?

Mr. Kormos: Chair, may I suggest that you call sections 15 and 16 for the same vote?

The Chair: Shall sections 15 and 16 of schedule A carry? Carried.

Mr. Kormos: Chair, may I request a two-minute recess, please?

The Chair: This committee will recess for two minutes.

The committee recessed from 1620 to 1623.

The Chair: The committee is back in session. Questions, comments and amendments to section 17 of schedule A?

Mr. Zimmer: I move that subsection 17(1) of schedule A to the bill be struck out.

The Chair: Carried? Carried.

Further amendments?

Mr. Zimmer: I move that the definition of “tribunal” in section 1 of the Milk Act, as set out in subsection 17(2) of schedule A to the bill, be struck out and the following substituted:

“‘Tribunal’ means the Agriculture, Food and Rural Affairs Appeal Tribunal continued under the Ministry of Agriculture, Food and Rural Affairs Act. (‘Tribunal’)”

The Chair: Shall the amendment carry? Carried.

Are there further questions, comments or amendments to section 17 of schedule A?

Shall section 17 of schedule A, as amended, carry? Carried.

Questions, comments and amendments for section 18 of schedule A?

Mr. Zimmer: I move that subsections 18(1) and (2) of schedule A to the bill be struck out.

The Chair: Comments? Discussion?

Shall the amendment carry? Carried.

Further amendments?

Mr. Kormos: I move that the definition of “Tribunal” in section 1 of the Ministry of Agriculture, Food and Rural Affairs Act, as set out in subsection 18(3) of schedule A to the bill, be struck out and the following substituted:

“‘Tribunal’ means the Agriculture, Food and Rural Affairs Appeal Tribunal continued under subsection 14(1) (‘Tribunal’)”

The Chair: Shall the amendment carry? Carried.

Mr. Zimmer: Trying to throw me off my game.

The Chair: Let’s do this carefully. There’s a lot of it. Further amendments?

Mr. Kormos: What are the two things that the public never wants to see being made?

The Chair: Sausage and laws.

Mr. Kormos: Yes.

Mr. Zimmer: I move that subsections 18(4), (5) and (6) of schedule A to the bill be struck out.

The Chair: Discussion? Shall the amendment carry? Carried.

Further amendments? Mr. Kormos, any further amendments to section 18 of schedule A?

Mr. Kormos: Nothing more to schedule A, sir.

The Chair: Further amendments?

Shall section 18 of schedule A, as amended, carry? Carried.

Permission to do block consideration of—

Mr. Kormos: No, sir; 19, please.

The Chair: Shall section 19 of schedule A carry? Carried.

Comments, discussion or amendments to section 20 of schedule A?

Mr. Kormos: If I may, I’m urging, I am exhorting government members to vote against section 20, as it is simply ill-conceived policy.

The Chair: Shall section 20 of schedule A carry? All those in favour of section 20? All those opposed? Section 20 is lost.

Shall section 21 of schedule A carry? All those in favour? All those opposed? I declare section 21 of schedule A lost.

Shall section 22 of schedule A carry? Carried.

Shall section 23 of schedule A carry? Carried.

Mr. Kormos: If I may, perhaps the Chair would want to call what I understand to be the balance of schedule A.

The Chair: Requesting permission to consider sections 24 through 57 of schedule A as a block: May sections 24 through 57 be considered as a block? Agreed.

Shall sections 24 through 57 of schedule A carry? Carried.

I’ll let the clerk catch up with you here.

Shall schedule A, as amended, carry? Carried.

Considering section 1 of schedule B: Are there any amendments to section 1 of schedule B?

1630

Mr. Kormos: I move that subsections 1(1), (2) and (3) of schedule B to the bill be struck out.

The Chair: Discussion or comments on the amendment? Shall the amendment carry? Carried.

Shall section 1 of schedule B, as amended, carry? Carried.

Mr. Kormos: Chair, if I may, I’m suggesting that you call section 2 through to section 8 of schedule B.

The Chair: Shall sections 2 through 8 of schedule B carry? Carried.

Are there any amendments to section 9 of schedule B?

Mr. Kormos: I move that subsections 9(2), (3), (4) and (5) of schedule B to the bill be struck out.

The Chair: Discussion on the amendment? Shall the amendment carry? Carried.

Further amendments to section 9 of schedule B? Shall section 9 of schedule B, as amended, carry?

Interjection: No.

The Chair: Is there any debate? All those in favour of section 9 of schedule B, as amended? All those opposed to section 9 of schedule B, as amended? I declare section 9 of schedule B, as amended, lost.

Are there any amendments to section 10 of schedule B? Shall section 10 of schedule B carry? I declare section 10 of schedule B lost.

Shall section 11 of schedule—

Mr. Kormos: Chair, I urge you to call sections 11, 12 and 13, please.

The Chair: Just before consideration of sections 11 through 13 of schedule B, as a point of clarification to Mr. Kormos, did you indeed intend to pass an amendment to section 9 of schedule B and defeat the amended section of schedule B?

Mr. Kormos: Yes. It was remarkable because what we did was strike out subsections (2), (3), (4) and (5), leaving only subsection (1), and then the government called our bet and raised us a subsection by saying, "We'll fold the whole thing," because they didn't have a pair in their hand. Is that a fair analysis, sir?

Mr. Zimmer: No comment.

The Chair: I take it that means yes.

Mr. Kormos: Yes, sir. There's liable to be a press release going out of the NDP caucus today saying, "New Democrats win 90% of the votes in committee today." That would be a remarkable event.

The Chair: In order to clarify one point, the clerk's table requests a brief recess.

Mr. Kormos: All right, sir. If this is a matter of the orderliness of doing something, I think we can address that. If it's a matter of the orderliness of striking out subsections (2), (3), (4) and (5) of 9 and then voting against the remaining subsection 9(1), if that's the question, I think we're prepared, on unanimous consent, to overcome any obstacle by moving what in effect was 9(1) as an amendment.

The Chair: This committee will be in recess for five minutes.

The committee recessed from 1635 to 1643.

The Chair: The clerk's office advises—and let the Chair put this before the committee—that with the defeat of section 9, as amended, the entire section is lost, including anything in the amendment. Is this the will of the committee, just for clarification?

Mr. Kormos: If I may, Chair, I believe that with unanimous consent we can overcome almost any barrier or hurdle. If the government requires unanimous consent to move an amendment amending schedule B by adding what was subsection 9(1) that was defeated—if that requires unanimous consent, we're prepared to give unanimous consent or to revisit this after that motion is prepared. As we move down, we can come back.

The Chair: Do we have unanimous consent to reopen section 9 of schedule B? Agreed.

Further amendments to section 9 of schedule B?

Just again, for clarification purposes, in the reopening of section 9 of schedule B, is it unanimously agreed that Mr. Kormos's amendment has carried? Agreed.

Mr. Zimmer: We're saving 9(1). That's what we want to do.

The Chair: Okay. Shall, then, section 9 of schedule B, as amended, carry? Okay. For clarification purposes, section 9 of schedule B, as amended, is no longer lost; it now carries? Agreed.

Mr. Kormos: If I may, Chair, we've effectively stricken a vote. We've rolled back a vote. We've reversed a vote on unanimous consent.

Mr. Zimmer: So we've done what we wanted to do.

Mr. Kormos: On unanimous consent.

Mr. Zimmer: Right.

The Chair: Shall we now move ahead with consideration of sections 11, 12 and 13 of schedule B? Shall sections 11, 12 and 13 of schedule B carry? Carried.

Mr. Kormos: I move that subsection 14(2) of schedule B to the bill be struck out.

The Chair: Discussion on the amendment? Shall the amendment carry? Carried.

Further amendments to section 14 of schedule B?

Shall section 14 of schedule B, as amended, carry? Carried.

Mr. Kormos: I move that subsections 15(1) and (2) of schedule B to the bill be struck out.

The Chair: Discussion on the amendment? Shall the amendment carry? Carried.

Further amendments to section 15 of schedule B?

Shall section 15 of schedule B, as amended, carry? Carried.

Mr. Kormos: I move that subsection 16(2) of schedule B to the bill be struck out.

The Chair: Carried.

Shall section 16 of schedule B, as amended, carry? Carried.

Mr. Kormos: Chair, if I may, I urge you to call section 17 through to section 22 to be dealt with in a block.

The Chair: Shall sections 17 through 22 of schedule B carry? Carried.

Questions, comments and amendments to section 23 of schedule B?

Mr. Kormos: I move that subsection 23(10) of schedule B to the bill be struck out.

The Chair: Questions, comments? Shall the amendment carry? Carried.

Further amendments to section 23 of schedule B?

Shall section 23 of schedule B, as amended, carry? Carried.

Shall section 24 of schedule B carry? Carried.

The Chair: Amendments to section 25 of schedule B?

Mr. Zimmer: I move that subsection 25(1) of schedule B to the bill be amended by striking out "subsections (2) to (9)" and substituting "subsections (3) to (8)."

The Chair: Discussion? Shall the amendment carry? Carried.

Further amendments?

Mr. Zimmer: I move that subsection 25(2) of schedule B to the bill be struck out.

The Chair: Discussion? Shall the amendment carry? Carried.

Further amendments?

Mr. Zimmer: I move that subsection 25(3) of schedule B to the bill be amended by striking out "Subsections 16(1) and (2) come" and substituting "Subsection 16(1) comes".

The Chair: Shall the amendment carry? Carried.

Further amendments?

Mr. Zimmer: I move that subsection 25(8) of schedule B to the bill be amended by striking out "Section 2 and subsections 9(2) to (5) come" and substituting "Section 2 comes".

The Chair: Shall the amendment carry? Carried.

Further amendments?

Mr. Zimmer: I move that subsection 25(9) of schedule B to the bill be struck out.

The Chair: Shall the amendment carry? Carried.

Further amendments?

Shall section 25 of schedule B, as amended, carry? Carried.

Shall schedule B, as amended, carry? Carried.

Mr. Kormos: Chair, I would invite you to call schedule C in its entirety and, by virtue of calling schedule C for a vote, the vote is on not just the title, but upon all of its contents: sections and tables.

1650

The Chair: Shall section 1, section 2, section 3, table 1, table 2, table 3 and table 4 of schedule C carry? Carried.

Shall schedule C carry? Carried.

Schedule D.

Mr. Kormos: Chair, if I may invite you to call sections 1 through 19 of schedule D.

The Chair: Considering sections 1 through 19, inclusive, of schedule D: Shall sections 1 through 19, inclusive, of schedule D carry? Carried.

Section 20 of schedule D: Questions, comments or amendments? Shall section 20 of schedule D carry? I declare section 20 of schedule D lost.

Shall section 21 of schedule D carry? Carried.

Shall schedule D, as amended, carry? Carried.

Mr. Kormos: Chair, I would invite you to call all of the contents of schedule E for a vote.

The Chair: Shall section 1, section 2, section 3, section 4 and section 5 of schedule E carry? Carried.

Shall schedule E carry? Carried.

Schedule F.

Mr. Kormos: Chair, I invite you to call sections 1, 2—my apologies. I invite you to call section 1 of schedule F, alone.

The Chair: Shall section 1 of schedule F carry? I declare section 1 of schedule F lost.

Do we have unanimous consent to stand down sections 2, 3, 4 and 5 of schedule F for consideration of any proposed amendments from today's presentation?

Mr. Kormos: I'd like to hear what the parliamentary assistant has to say about any possible intentions the government has, whether it's going to deal with it in this bill or deal with it later, once this bill has cleared committee.

Mr. Zimmer: We'll look at it later on.

The Chair: Okay.

Mr. Kormos: Just to clarify, Chair, I understand if we defer those sections, the bill can't be reported back to the House, then, until this committee has voted on those sections.

The Chair: That would be correct.

Mr. Zimmer: All right. Let's do it.

Interjection: So you're not standing them down?

Mr. Zimmer: We're not standing it down.

Mr. Miller: So you'd like to deal with these now. When, then, I might ask, would these possible amendments be dealt with? I'm in favour of reporting this back

to the Legislature; I'm just wondering how consideration might be given to the presentation given to us today and the suggested amendments.

Mr. Zimmer: We'll bring it back to the committee and I'll speak to you.

Mr. Miller: Okay, fine by me, as long as they are addressed at some time in the future.

Mr. Zimmer: Yes.

Mr. Kormos: If I may, Chair?

The Chair: Mr. Kormos.

Mr. Kormos: Very briefly, let's remember that the observation was made by the presenters today, Ms. Marshall and Inspector Draper, that this bill has not been addressed in decades and perhaps it's time to have a review of their legislation by the appropriate committee; first a review of the existing bill, hearing submissions, and then let the government respond with drafting stand-alone legislation so that there's a far more comprehensive review and amendment of the legislation. The message was clear that this was their very immediate concern, that there was a whole lot more there that they felt needed updating. I reserve my right in the House to insist that the government has failed the OSPCA by not responding promptly to their issues.

The Chair: Mr. Zimmer?

Mr. Zimmer: I have no comment. I understand what my friend has said.

The Chair: Okay.

Shall section 2 of schedule F carry? Carried.

Shall sections 3, 4, 5, 6 and 7 of schedule F carry? Carried.

Shall schedule F, as amended, carry? Carried.

Schedule G.

Mr. Zimmer: I move that the title to schedule G to the bill be struck out and the following substituted:

"Schedule G

"Ministry of Government Services

"(Former Ministry of Consumer and Business Services)".

Mr. Kormos: Is the purpose of this amendment—I understand that you want to change the name to "Ministry of Government Services" from "Ministry of Consumer and Business Services." But by virtue of including "Former Ministry of Consumer and Business Services," is this to underscore the fact that the government has gutted that ministry and the services it provides and that it is but a distant memory?

Mr. Zimmer: Mr. Gregory?

Mr. Gregory: I believe that the member for the New Democratic Party was not making a substantive comment on the bill.

Mr. Zimmer: There, Peter. Smoke that.

Mr. Kormos: I've smoked worse than that—please.

The Chair: Okay. Further discussion on the amendment? Shall the amendment carry? Carried.

Shall the title of schedule G, as amended, carry? Carried.

Considering section 1 of schedule G: Shall section 1 of schedule G carry? Carried.

Shall section 2 of schedule G carry? Carried.

Is it the will of the committee to block-consider any sections of schedule G?

Mr. Kormos: Section 3.

The Chair: Section 3: Are there any amendments on section 3 of schedule G? Shall section 3 of schedule G carry? I declare section 3 of schedule G lost.

Shall section 4 of schedule G carry? Carried.

Shall section 5 of schedule G carry? Section 5 of schedule G is lost.

Shall section 6 of schedule—

Mr. Kormos: Chair, if I may invite you to call sections 6 through 14.

The Chair: Shall sections 6 through 14, inclusive, of schedule G carry? Carried.

Questions, comments and amendments on section 15 of schedule G?

1700

Mr. Zimmer: I move that subsection 15(2) of schedule G to the bill be amended by striking out “subsections 3(1), (3) and 9(2)” and substituting “subsection 9(2)”.

The Chair: Carried? Carried.

Shall section 15 of schedule G, as amended, carry? Carried.

Shall schedule G, as amended, carry? Carried.

Schedule H: Shall section 1 of schedule H carry? Carried.

Shall section 2 of schedule H—

Mr. Kormos: Mr. Chair, a question to the parliamentary assistant: When we're dealing with the Ontario tartan, in the first block, the mixed green block with the 129 threads, the two mid-green threads—how were they determined as compared to three or four mid-green threads, and exactly what does this amendment do to the Ontario tartan in terms of its texture, its colour, its appearance?

Mr. Zimmer: It's a better tartan. I'll ask Mr. Miller—

Ms. Jennifer F. Mossop (Stoney Creek): Perhaps, as the parliamentary assistant to the Minister of Culture responsible for tartan, I could potentially address that issue?

Mr. Kormos: Please.

Ms. Mossop: Thank you very much.

Mr. Kormos: With specifics.

Ms. Mossop: It makes it look much, much better and I know a discriminating man like yourself will instantly, upon viewing it, see the much-improved impression it leaves.

Mr. Zimmer: What about Mr. Miller? He shows up in tartan on Tartan Day, in his plaids. What do you think?

Ms. Mossop: In fact, it also brings it into accordance with a great clan tradition on tartans and threads, but I don't want to get too detailed. I know the aesthetic of it will not be lost on you.

The Chair: I believe our counsel has a comment as well.

Mr. Wood: The reason for the amendment here is to correct a technical error in the act as it was originally enacted. The tartan is supposed to be symmetric and it

wasn't. There was a slight error in the original one. This corrects it. So you can see that it's symmetric in the sense that if you look at the first item and the last item in the list, they're the same. Then proceed down the list: The second item and the second-last item are the same, and so forth into the middle.

Mr. Kormos: That is—

Ms. Mossop: It will be lost on some people, but not on you. You will see it.

Mr. Kormos: You'll notice that the central number is the only odd number. All the other segments of the block—and for the people reading this Hansard, scholars down the road, let's note that the first block is called the mixed green block and consists of 129 threads, not 130, not 128, but 129 threads disposed as follows: two white; 20 dark green; two red; 20 mid-green; four red; two mid-green—

Mr. Zimmer: Are you trying to use up the clock?

Mr. Kormos: —two red; 25 mid-green; two red; two mid-green; four red; 20 mid-green; two red; 20 dark green and two white.

Now I feel it's possible for me to support this section, having understood it with the assistance of counsel and the contribution by Ms. Mossop. I feel capable of supporting this. Any concerns that I had have been alleviated. Mr. Zimmer?

Mr. Zimmer: As long as you've answered that question, you might reflect on the answer to this puzzle: How much wood would a woodchuck chuck if a woodchuck could chuck wood?

The Chair: With that rhetorical question having been submitted, the Chair will ask: Shall section 2 of schedule H carry? Carried.

Shall section 3 of schedule H carry? Carried.

Shall schedule H carry? Carried.

Mr. Kormos: I invite you, Chair, to call all of schedule I.

The Chair: In consideration of sections 1 through 5 of schedule I, inclusive: Shall sections 1 through 5 of schedule I, inclusive, carry? Carried.

Shall schedule I carry? Carried.

Schedule J.

Mr. Zimmer: I move that paragraph 4 of subsection 1(1) of schedule J to the bill be amended by striking out “Ontario Investment Services Inc.” and substituting “Ontario Investment Service Inc”.

The Chair: Carried.

Further amendments to section 1 of schedule J?

Shall section 1 of schedule J, as amended, carry? Carried.

Shall section 2 of schedule J carry? Carried.

Shall section 3 of schedule J carry? Carried.

Shall schedule J, as amended, carry? Carried.

Schedule K: Shall section 1 of schedule K carry? Carried.

Shall section 2 of schedule K carry? Carried.

Shall section 3 of schedule K carry? I declare section 3 of schedule K lost.

Shall section 4 and section 5 of schedule K carry? Carried.

Shall section 6 of schedule K carry? I declare section 6 of schedule K lost.

Amendments to section 7 of schedule K?

Mr. Zimmer: I move that section 7 of schedule K to the bill be struck out and the following substituted:

“Commencement

“7. This schedule comes into force on the day the Good Government Act, 2005 receives royal assent.”

The Chair: Shall the amendment carry? Carried.

Shall section 7 of schedule K, as amended, carry? Carried.

Shall schedule K, as amended, carry? Carried.

Shall section 1 of schedule L carry? I declare section 1 of schedule L lost.

Shall section 2—

Mr. Kormos: One moment, please.

Interjection.

Mr. Kormos: Thank you kindly. Sections 2 and 3, please.

The Chair: Shall section 2 and section 3 of schedule L carry? Carried.

Mr. Kormos.

Mr. Kormos: I move that subsection 4(5) of schedule L to the bill be struck out.

The Chair: Questions and comments? Shall the amendment carry? Carried.

Further amendments? Shall section—

Mr. Kormos: Sections 4, 5 and 6, please.

The Chair: Okay. Well, let's consider this one. Shall section 4 of schedule L, as amended, carry? Carried.

Shall section 5 and section 6 of schedule L carry? Carried.

Shall section 7 of schedule L carry?

Mr. Kormos: I move that subsection 7(5) of schedule L to the bill be struck out.

The Chair: Shall the amendment carry? Carried.

Further amendments? Shall section 7 of schedule L, as amended, carry? Carried.

Mr. Kormos: Through to 12 inclusive, please.

The Chair: Shall sections 8 through 12, inclusive, of schedule L carry? Carried.

Mr. Zimmer: I move that subsection 13 of schedule L to the bill be struck out and the following substituted:

“Commencement

“13. This schedule comes into force on the day the Good Government Act, 2005 receives royal assent.”

1710

The Chair: Shall the amendment carry? Carried.

I'm advised by the clerk that I was getting a little ahead of myself. Before consideration of Mr. Zimmer's amendment, shall table 1, table 2, table 3 and table 4 of schedule L carry? Carried.

Shall Mr. Zimmer's amendment to section 13 of schedule L carry? Carried.

Shall section 13 of schedule L, as amended, carry? Carried.

Shall schedule L, as amended, carry? Carried.

Mr. Kormos: Chair, I invite you to call schedule M in its entirety.

The Chair: Shall sections 1, 2, 3, 4, 5, 6, 7 and 8 of schedule M carry? Carried.

Mr. Zimmer: I move—

The Chair: Hold on. We're not done yet.

Shall schedule M carry? Carried.

Schedule N: Amendments?

Mr. Zimmer: I move that the title to schedule N to the bill be struck out and the following substituted:

“Schedule N

“Ministry of Government Services (former Management Board Secretariat and the Centre for Leadership and Human Resource Management)”.

The Chair: Discussion? Shall the amendment carry? Carried.

Further amendments?

Mr. Kormos: I move that subsection 1(8) of schedule N to the bill be struck out.

The Chair: Before consideration of that, shall the title of schedule N, as amended, carry? Carried.

Mr. Kormos, your amendment.

Mr. Kormos: I move that subsection 1(8) of schedule N to the bill be struck out.

The Chair: Discussion? Shall the amendment carry? Carried.

Shall section 1 of schedule N, as amended, carry? Let's try that one more time: Shall section 1 of schedule N, as amended, carry? Carried.

Shall section 2 of schedule N carry? Section 2 of schedule N is lost.

Is there an opportunity for any block consideration on schedule N?

Mr. Kormos: No, sir.

The Chair: Okay. Shall section 3 of schedule N carry? Carried.

Shall section 4 of schedule N carry?

Mr. Kormos: I move that subsection 4(6) of schedule N to the bill be struck out.

The Chair: Discussion? Shall the amendment carry? Carried.

Further amendments?

Shall section 4 of schedule N, as amended, carry? Carried.

Section 5 of schedule N: Any amendments?

Mr. Kormos: Through to 7, please.

The Chair: Shall section 5, section 6 and section 7 of schedule N carry? Carried.

Shall schedule N, as amended, carry? Carried.

Is there any opportunity for block consideration on schedule O?

Mr. Kormos: I propose that schedule O be dealt with in its entirety.

The Chair: Shall section 1 through section 6 of schedule O, inclusive, carry? Carried.

Shall schedule O carry? Carried.

Schedule P: Mr. Kormos.

Mr. Kormos: I move that subsection 1(5) of schedule P to the bill be struck out.

The Chair: Shall the amendment carry? Carried.

Shall section 1 of schedule P, as amended, carry? Carried.

Shall sections 2, 3 and 4 of schedule P—

Mr. Kormos: Section 2, please.

The Chair: Amendments on section 2 of schedule P?

Mr. Kormos: I have no amendments, but I call upon people to vote against section 2.

The Chair: Shall section 2 of schedule P carry? Section 2 of schedule P is lost.

Shall section 3 of schedule P carry? Section 3 of schedule P is lost.

Shall section 4 of schedule P carry? Carried.

Amendments on section 5 of schedule P?

Mr. Zimmer: I move that paragraph 1 of subsection 25(5) of the Niagara Escarpment Planning and Development Act, as set out in subsection 5(1) of schedule P to the bill, be struck out and the following substituted:

“1. By regular or registered mail or personal service to the minister, to the applicant for the permit, to persons who have requested to receive notice of the decision, to persons whom the delegate considers may have an interest in the decision and to all assessed owners of land lying within 120 metres of the land that is the subject of the application.”

The Chair: Carried? Carried.

Further amendments?

Mr. Zimmer: I move that section 5 of schedule P to the bill be amended by adding the following subsection:

“(1.1) Subsections 25(8) and (9) of the act are amended by striking out ‘subsection (5)’ wherever that expression appears and substituting in each case ‘subsection (5.1)’.”

The Chair: Carried? Carried.

Further amendments to section 5 of schedule P? Shall section 5 of schedule P, as amended, carry? Carried.

Mr. Kormos:

Mr. Kormos: I move that subsection 6(13) of schedule P to the bill be struck out.

The Chair: Shall the amendment carry? Carried.

Further amendments to section 6? Shall section 6 of schedule P, as amended, carry? Carried.

Shall section 7 and section 8 of schedule P carry? Carried.

Mr. Kormos: Chair, may I request a brief adjournment at this point?

The Chair: May we consider schedule P, as amended, before a recess?

Mr. Kormos: You’ve persuaded me.

The Chair: Democracy prevails.

Shall schedule P, as amended, carry? Carried.

This committee is in recess for five minutes.

The committee recessed from 1718 to 1723.

The Chair: We are now considering schedule Q. Is there any opportunity for block consideration in schedule Q?

Mr. Kormos: No, sir.

The Chair: Shall section 1 of schedule Q carry?

Are there any amendments to section 1 of schedule Q?

Mr. Kormos: Did we not just vote against section 1?

The Chair: Just to clarify, there are no amendments to section 1 of schedule Q. Section 1 of schedule Q has been lost. Correct?

Mr. Kormos: Correct.

The Chair: Are there any amendments to section 2 of schedule Q?

Shall section 2 of schedule Q carry? Carried.

Shall section 3 of schedule Q carry? Carried.

Shall section 4 of schedule Q carry? Carried.

Shall schedule Q, as amended, carry? Carried.

Schedule R: title.

Mr. Zimmer: I move that the title to schedule R to the bill be struck out and the following substituted:

“Schedule R

“Ministry of Tourism.”

The Chair: Shall the amendment carry? Carried.

Shall the title of schedule R, as amended, carry? Carried.

Amendments to section 1 of schedule R?

Shall section 1 of schedule R carry? Carried.

Shall section 2 of schedule R carry?

Mr. Kormos: Chair, I’m calling upon and urging government members, as well as my colleague Mr. Miller, to vote against section 2.

The Chair: Shall section 2 of schedule R carry? Section 2 of schedule R is lost.

Mr. Kormos: If I may, Chair: I trust, then, that the remnant of subsection (2) of section 3 is corrected merely to comply with the act, as it is written in its amended form.

The Chair: Our counsel wishes to make one comment.

Mr. Wood: The preferable course would be to now do a motion to reflect the fact that we have defeated section 2. I can read the motion. It would do what Mr. Kormos suggested; it would in effect remove subsection 3(2). It would read as follows:

“I move that section 3 of schedule R to the bill be struck out and the following substituted:

““Commencement

““3. This schedule comes into force on the day the Good Government Act, 2005, receives royal assent.””

Mr. Kormos: Thank you very much.

Mr. Zimmer: I make that motion; I won’t bother reading it again.

Mr. Kormos: Mr. Zimmer, I will support that motion.

The Chair: The clerk’s office will photocopy and distribute the motion and one committee member will then move it.

Mr. Zimmer: Chair, can I just read it in, and we’ll make a copy later?

The Chair: Okay.

Mr. Zimmer: I move that section 3 of schedule R to the bill be struck out and the following substituted:

“Commencement

“3. This schedule comes into force on the day the Good Government Act, 2005, receives royal assent.”

The Chair: Discussion? Shall the amendment carry? Carried.

Shall section 3 of schedule R, as amended, carry? Carried.

Shall schedule R, as amended, carry? Carried.
Schedule S.

Mr. Kormos: Chair, if I may invite you to call all of the sections of schedule S?

The Chair: Shall sections 1 through 4, inclusive, of schedule S carry? Carried.

Shall schedule S carry? Carried.

Schedule T: Is there an opportunity for any block consideration on schedule T?

Mr. Zimmer: I'm sorry, I—

The Chair: Is there any opportunity to do any block consideration of schedule T?

Mr. Kormos: Mr. Zimmer and I invite you to call all of schedule T—Ms. Mossop as well. Mario Racco joins us, Mr. Sergio joins us, and Mrs. Van Bommel and Mr. Miller join us in calling upon you to call all of schedule T.

The Chair: Seeing an overwhelming desire, shall sections 1 through 19 of schedule T carry? Carried.

Shall schedule T carry? Carried.

Shall section 1 of the bill carry? Carried.

Shall section 2 of the bill carry? Carried.

Shall section 3 of the bill carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 190, as amended, carry? Carried.

Shall I report the bill—

Mr. Kormos: One moment, sir.

The Chair: Shall I report the bill, as amended, to the House?

Mr. Kormos: Debate, please.

The Chair: Is there debate on reporting the bill to the House?

Mr. Kormos: Omnibus bills are always unwieldy. I truly am grateful to John Gregory from the Ministry of

the Attorney General, who has guided me through many things in the course of many years, but has been extremely helpful with respect to this bill.

Legislative counsel, as always, was incredibly valuable to us. None of us sits down and drafts stuff on our own. It's like a person who is his own counsel has the world's biggest fool for a client, so in this case, Michael Wood, legislative counsel, has been helpful.

Also, in terms of the staff, Shawn Knights from Mr. Zimmer's office has been critical in getting this bill to the stage where it's at, as well as Jordan Penic. His House leader, Jim Bradley, should know that Jordan Penic averted many disasters by being here today, being on top of things and knowing where things were headed.

I, of course, have had the able and very qualified assistance of our researcher, Elliott Anderson. I can't imagine what this afternoon would have been like without him sitting with me, assisting me as we pored through this cumbersome omnibus bill. I remember when the Liberals used to rail along with New Democrats as members of the opposition against the Conservatives for their omnibus bills. I look forward to the day when Liberals, as members of the opposition, will be able to rail against omnibus bills again.

I truly do thank the staff people who have assisted us with this, especially on a bill like this. It's tough slogging if you don't have capable staff as we've had.

The Chair: Further debate?

Mr. Zimmer: I thank my colleagues on that side, on the Conservative side and the NDP side, for your co-operation. We could have been here for a long, long, long time. So thank you, Mr. Miller and Mr. Kormos, and my colleagues. And thank you, Mr. Chair.

The Chair: Further debate? Shall I report the bill, as amended, to the House? Carried.

This committee is adjourned.

The committee adjourned at 1733.

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Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 11 May 2006

Journal des débats (Hansard)

Jeudi 11 mai 2006

Standing committee on the Legislative Assembly

Securities Transfer Act, 2006

Comité permanent de l'Assemblée législative

Loi de 2006 sur le transfert
des valeurs mobilières

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Thursday 11 May 2006

*The committee met at 1537 in committee room 1.*SECURITIES TRANSFER ACT, 2006
LOI DE 2006 SUR LE TRANSFERT
DES VALEURS MOBILIÈRES

Consideration of Bill 41, An Act to create a comprehensive system of rules for the transfer of securities that is consistent with such rules across North America and to make consequential amendments to various Acts / Projet de loi 41, Loi instituant un régime global de règles régissant le transfert des valeurs mobilières qui cadre avec celui qui s'applique dans ce domaine en Amérique du Nord et apportant des modifications corrélatives à diverses lois.

The Chair (Mr. Bob Delaney): Good afternoon everyone, this is the standing committee on the Legislative Assembly. We are gathered here today for consideration of Bill 41, An Act to create a comprehensive system of rules for the transfer of securities that is consistent with such rules across North America and to make consequential amendments to various Acts.

We have some items on our agenda. We'll begin with the report of the subcommittee.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): The committee's subcommittee met on Thursday, May 4, 2006, to consider the method of proceeding on Bill 41, An Act to create a comprehensive system of rules for the transfer of securities that is consistent with such rules across North America and to make consequential amendments to various Acts. The committee reports eight points:

"1. That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 41 on the Ontario parliamentary channel and the committee's website.

"2. That interested parties who wish to be considered to make an oral presentation on Bill 41 contact the clerk of the committee by 12 noon on Wednesday, May 10, 2006.

"3. That the deadline for written submissions on Bill 41 be 5 p.m. on Thursday, May 11, 2006.

"4. That the committee meet for the purpose of public hearings on Thursday, May 11, subject to witness demand.

"5. That witnesses be offered a maximum of 15 minutes for their presentation and that the clerk of the com-

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Jeudi 11 mai 2006

mittee, with the authorization of the Chair, may amend the amount of time allocated for witness presentations in order to accommodate all requests to appear.

"6. That the committee meet for the purpose of clause-by-clause consideration of Bill 41 immediately following public hearings on Thursday, May 11, 2006.

"7. That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 12 noon on Thursday, May 11, 2006.

"8. That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the sub-committee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings."

The Chair: Shall the report of the subcommittee be adopted? Carried.

ROBERT SCAVONE

The Chair: Our next item on the agenda is a presentation by Mr. Robert Scavone, who will be making a 15-minute deputation to us. Welcome, Mr. Scavone. You have 15 minutes for your deputation. If you choose to use less than the allotted time, the remainder will be divided among the parties to ask you questions. Please introduce yourself to Hansard by stating your name and begin your presentation.

Mr. Robert Scavone: Thank you, Mr. Chairman and committee members. My name is Robert Scavone. I'm a partner with the debt products group of the law firm of McMillan Binch Mendelsohn LLP, in Toronto, and I've practised corporate commercial law since 1987, with an emphasis on structured products, asset securitization and secured financing.

I'd like to thank you for giving me the opportunity to appear before you today to speak in support of Bill 41, the Securities Transfer Act, 2006, which has been referred to your committee. I'm here on my own behalf as a lawyer with a strong professional interest in law reform in this area of commercial law, but I'm also a member of the personal properties security law committee of the business law section of the Ontario Bar Association, which strongly supports this bill. Like many of my colleagues at my own firm and others, I've devoted many hours over the last few years to advocating the reforms set out in Bill 41, and I've worked closely with members of the Uniform Law Conference of

Canada committee that drafted the Uniform Securities Transfer Act, which is the source of Bill 41. I should say that I have not had the opportunity to review the amendments that were tabled this morning, so my comments will be of a more general nature rather than addressing any specific amendments.

First, I'd like to clear up some possible misconceptions about Bill 41 that came to light during the second reading debate in the last two weeks. It's important to keep in mind that this bill does not pretend to be a cure-all for every systemic ill that besets the Canadian capital markets. There are many things it does not do and was not intended to do. It is not securities regulatory law. It won't prevent Enron from happening in Canada. It has nothing to do with securities fraud or hard-working Ontarians being cheated out of their life savings by clever stock manipulators. These are serious problems that may require legislative solutions, but that's not what this legislation is intended to do.

The complaint that this bill does not protect the interests of small investors or promote good corporate governance or separate the adjudicative from the enforcement functions of the OSC is a little like complaining to the electrician who just rewired your house that he didn't fix the leak in your roof, clean out your garage and wash your car. To call this bill "timid" and "tepid," as two honourable members did during the second reading debate, because it doesn't provide for effective prosecution of securities regulatory offences, is a little like calling your plumber timid because when she fixed your drain she didn't also get rid of the neighbourhood drug dealers.

This bill has modest, focused objectives that are no less important because they lack a high public profile. This is framework or facilitative legislation, not prescriptive rule-making. It articulates the legal principles that underlie the transfer of investment securities in the modern capital marketplace so that businesspeople will have the legal certainty they require to get deals done. Like good wiring and good plumbing, this sort of legislation gets noticed only when it's not there or it doesn't work.

The most important reason for supporting this bill is that without this legislation, Ontario's capital markets will continue to labour under a distinct competitive disadvantage to those in the US. New York and every other state of the union have an act that revised article 8 of the Uniform Commercial Code, which is up-to-date legislation that recognizes modern commercial practices in the securities industry and allows parties to predict legal results of their transactions with confidence and certainty.

What we now have is a cobbled-up patchwork of laws that is at least 40 years out of date. Without this legislation, our competitive position in the North American capital markets will be progressively eroded as business flows south. I often see signs of this erosion in my own practice. Complex domestic and cross-border loans or swaps using book-based securities as collateral are often held up for days or even weeks while lawyers debate

convoluted qualifications to legal opinions that in the US would be quite straightforward and routine. US lenders and counterparties are often unpleasantly surprised to learn that, in Ontario, a security interest in US treasury bills pledged by an Ontario debtor can only be perfected by registration under the Ontario Personal Property Security Act, and not by possession or control, which would better protect the collateral against the claims of third parties. To ensure priority, the lender or counterparty must instead conduct PPSA searches and seek subordinations and waivers from other creditors that have registered against the debtor, which can be costly and time-consuming. To resolve these uncertainties, the debtor is sometimes required to post an expensive letter of credit. Even domestic lenders balk at accepting publicly traded securities as collateral for loans unless the debtor can produce a physical share certificate, which often is impractical.

To address these problems, Bill 41 borrows from revised article 8 of the UCC, which has worked well in the US over the past decade. This approach has the added benefit of harmonizing our laws with those of our largest trading partner, which should greatly facilitate cross-border transactions. By importing the concept of revised article 8, this bill will completely overhaul the property law aspects of the purchase, sale, pledge and holding of investment securities and other interest in investment property, and bring it in line with modern commercial practices. It will finally provide a sound legal basis for the system through which the vast majority of publicly traded securities are held and settled today, which is often referred to as the tiered or indirect holding system.

The existing law dates from an age when security trades were largely paper-based, when trading volumes were low and owning a share meant you held an engraved share certificate with your name on it. This is known as the direct holding system, and it still works well for private companies. But to deal with the dramatic increase in trading volumes in the 1960s and 1970s, an indirect or tiered holding system evolved, whereby a single physical security certificate for a whole issue, known as a global certificate, is registered in the name of a clearing agency such as the Canadian Depository for Securities Limited, CDS, and is immobilized. Transfers of that position in that security in the clearing agency are now effective electronically on a net basis between participants such as banks and investment dealers, which in turn hold those positions for the account of other brokers or their clients.

This system has resulted in much greater efficiencies and trading volumes than would be possible through a paper-based system, but the legal basis for the system is unclear. There have been some changes to our law, but they're not adequate. Twenty years ago, section 85 was added to the Business Corporations Act to respond to the growing use of indirectly held security. It does so by deeming transfers of position through CDS to be the legal equivalent of physical delivery. This makes it legally possible to be in possession of a book-based security,

even though it has no physical existence. The transfer or pledge is deemed to occur once the appropriate entries are made on the records of CDS.

But this solution was far from perfect. It's unclear what the appropriate entries actually are. Section 85 doesn't deal well with the multiple tiers of intermediaries through which securities are actually held today. It breaks down if both beneficial owners happen to have the same broker, because there's no transfer from one participant to another. It doesn't apply to such common non-corporate securities as limited partnership units or income trust units. Many provisions do not clearly apply to government securities, and the deeming rules only work if the book-based securities happen to be settled through CDS and not some other clearing agency such as DTC in the US or Euroclear or Clearstream in Europe.

One of the biggest gaps in the existing law is in the rules governing conflict of laws, which determine which jurisdiction governs a multi-jurisdiction transaction. For example, if a Toronto-based bank takes a pledge of securities issued by a French company, settled through the Clearstream system in Luxembourg, from a debtor domiciled in Pennsylvania, using documents governed by New York law, it's nearly impossible to come up with a single, clear answer as to where the pledge should be perfected or, in fact, whether it should even be considered a pledge at all.

Under the PPSA, perfection of a possessory security interest in a security is governed by the law of the jurisdiction in which the security is situated. But no one really knows where a book-based security is situated. There are about half a dozen answers to that question. This uncertainly means that the secured party has no assurance as to where or how to perfect its security interest so as to obtain priority over competing creditors. As a lawyer, I have to include pages of unsatisfactory qualifications in my legal opinions, advise clients to perfect their security interest in every possible jurisdiction that may have a connection, and then hope for the best. All this adds needless delay, legal expense and uncertainty to transactions where a high premium is placed on speed of execution, cost-effectiveness and certainty.

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What are the basic concepts of Bill 41? This is complex and technical legislation and I don't pretend to be able to explain it fully in a few minutes, but it may be helpful for your purposes to focus on three core concepts that deal with the tiered holding systems. These are the concepts of security entitlement, control, and the new conflict-of-law rules.

"Security entitlement" is the term used to describe the bundle of rights held by someone who holds interest in securities indirectly through a broker or another securities intermediary such as a bank or clearing agency. These are set out in part VI of the bill. In the direct holding system, these rights were actually embedded in the physical security certificate itself. In the indirect holding system, the rights arise through a web of contracts with a series of intermediaries such as brokers and clearing agencies, and

can be asserted by the investor or the entitlement holder only against the most immediate intermediary, such as a broker, not against the actual issuer.

These concepts are a much more accurate reflection of how the tiered holding system actually works in practice than the fictions of deemed possession and constructive delivery in the existing law. Despite the indirect nature of an entitlement holder's interest, a security entitlement does confer most of the same benefits as holding the underlying security directly. The securities intermediary is required to carry out the instructions of the entitlement holder, pass through interest and dividends, exercise voting rights, and comply with entitlement orders to dispose of the securities. A security entitlement is actually a property interest in the underlying security, not just a bundle of contractual rights against the particular intermediary. The intermediary is required to hold enough of the underlying securities to satisfy the claims of all entitlement holders and owes them a duty of care.

The second important concept of Bill 41 is control, which replaces possession as the means of establishing a superior claim to a security or security entitlement. If you have control of investment property, you have the right to dispose of it without further involvement of the original owner. You can still take control over a certificated security through physical possession, but to take control over a security entitlement you must either become the entitlement holder or enter into what's known as a control agreement, whereby the intermediary agrees to comply with entitlement orders from you without further consent from the entitlement holder.

The main benefit of control is that it will provide an easy and certain way to perfect the security interests and security entitlements that will take priority over security interests perfected by registration. This will enable banks and other lenders to accept publicly traded securities as collateral for loans without having to insist on obtaining a physical certificate and without fear that their interests will be defeated by another lender or purchaser without notice of their interest.

The third major innovation of Bill 41 is that it will provide clear and easily applied conflict-of-law rules that will set out what law governs the perfection of security interests and security entitlements. Perfection of a security interest will be governed by the security intermediary's jurisdiction. This is determined by a set of cascading rules that looks first to the jurisdiction set out in the agreement with the intermediary, and then to a number of other factors if the preceding one does not apply. The new rules will end the expensive guessing game that lenders and lawyers now have to engage in when faced with a pledge of book-based securities involving multiple jurisdictions.

Implementing the Securities Transfer Act in Ontario will be the first step towards adopting truly uniform legislation in this area across Canada which will promote interprovincial trade and reduce transaction costs. Staff at the Ministry of Government Services are actively working with their counterparts in other provinces to

ensure almost verbatim uniformity of language across the country. I understand that this goal has largely been attained. This high degree of uniformity is itself a remarkable achievement and something never before accomplished in modern complex, commercial legislation in Canada. To maintain its leadership role in the Canadian capital markets, it's essential that Ontario be the first province to enact this legislation.

The Chair: Mr. Scavone, just to let you know, you've got about two minutes.

Mr. Scavone: I have about 10 seconds to go.

In conclusion, Mr. Chairman and committee members, I would urge you to do everything you can to move this bill through the legislative process as expeditiously as possible. It's an idea whose time has come and an idea whose implementation is vital to Ontario's future.

Thank you. In the time remaining, I'd like to entertain any questions.

The Chair: Thank you. We would perhaps have time for just one very brief question from Mr. Tascona.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): I want to thank you for coming here today, Mr. Scavone. I noticed that you ended up in the press release for December 1, 2005, put out by the Ministry of Government Services, where you comment on the bill. How did you end up in the press release for this?

Mr. Scavone: I was asked by Allen Doppelt to comment on the bill. That's how my name got in the press release.

Mr. Tascona: Who's Allen Doppelt, for clarification?

Interjection.

Mr. Tascona: Okay. Thank you.

The Chair: Let it be noted for the record that Allen Doppelt has identified himself as senior counsel for the securities branch in the ministry.

Mr. Scavone, you are welcome to stay and watch the minutiae of the clause-by-clause consideration of the bill. I want to thank you very much for your extremely interesting presentation. There is no doubt that you have mastered the technicalities of this, and you certainly understand its implications in the cross-border transfer of securities. Thank you once again. I hope you can stay for a little while.

Are there any comments, questions or amendments to any section of the bill, and if so, to what section?

Mrs. Liz Sandals (Guelph-Wellington): Before we start in on the amendment package, I thought I might just explain where these come from, because it looks quite daunting. In fact, I think there is maybe one section where there are a couple of subclauses that have a somewhat substantive amendment. Most of the amendments come as a result of, now that Alberta has tabled its legislation and BC is about to table legislation, our lawyers and staff having been able to work with their lawyers and staff in order to get further uniformity of language, which leads to a number of the amendments.

There's a couple of places where we're correcting cross references to other acts, a little bit of grammar, a little bit of spelling, and then the other thing that you will

notice is that there are a number of changes in the French translation. That's because Quebec will be using, and we want to be consistent with, the international convention on securities approved by the UN in terms of their French language usage. We're adopting that French language usage, so there are some changes to our normal translation that we're going to amend in the French.

So other than the one that's slightly substantive, which I'll note when I get there, those reasons which I just outlined are the reason behind all the amendments.

Ms. Mossop is going to help me by reading things that pertain to French, and when I run out of voice, I may panic and hand them out in all directions for people to read into the record. But I believe we begin with Ms. Mossop.

Ms. Jennifer F. Mossop (Stoney Creek): I move that the French version of the bill be amended by striking out "droit opposable" and "droits opposables" wherever they appear in the following provisions and substituting in each case "droit intermédiaire" and "droits intermédiaires," as the case may be:

Subsection 1(2) of the bill

Clause 17(1)(b) of the bill

Subsections 17(2) and (3) of the bill

Subsections 25(1) and (2) of the bill

Section 26 of the bill

Subclause 29(b)(ii) of the bill

Clause 41(b) of the bill

Paragraph 2 of subsection 45(3) of the bill

Section 50 of the bill

Paragraph 3 of section 51 of the bill

Subsections 55(1) and (2) of the bill

Subsections 95(1), (2), (3) and (4) of the bill

Section 96 of the bill

Subsection 97(1) of the bill

Clause 97(2)(a) of the bill

Clause 97(4)(b) of the bill

Subsections 97(5) and (6) of the bill

Subsections 98(1) and (5) of the bill

Clause 101(2)(a) of the bill

Subsection 101(3) of the bill

Clause 102(1)(a) of the bill

Subsection 104(1) of the bill

Paragraphs 1 and 2 of subsection 104(3) of the bill

Subsections 105(1), (2) and (3) of the bill

The definition of « intérêt bénéficiaire » in subsection 1(1) of the Business Corporations Act, as set out in subsection 106(1) of the bill

The definition of « bien de placement » in subsection 1(1) of the Personal Property Security Act, as set out in subsection 123(4) of the bill

Clauses 1(2)(c) and (e) of the Personal Property Security Act, as set out in subsection 123(9) of the bill

Clauses 7.1(1)(c) and (2)(c) of the Personal Property Security Act, as set out in section 126 of the bill

Subclause 11(2)(a)(ii) of the Personal Property Security Act, as set out in section 129 of the bill

Subsection 11(4) of the Personal Property Security Act, as set out in section 129 of the bill

Subsection 11.1(1) of the Personal Property Security Act, as set out in section 129 of the bill

Subsection 19.1(1) of the Personal Property Security Act, as set out in section 131 of the bill

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Subclause 22.1(2)(b)(iii) of the Personal Property Security Act, as set out in section 134 of the bill

Subsections 28(8), (9) and (10) of the Personal Property Security Act, as set out in section 136 of the bill

Clause 30.1(4)(b) of the Personal Property Security Act, as set out in section 138 of the bill

Subsection 30.1(5) of the Personal Property Security Act, as set out in section 138 of the bill

Subsection 56(7) of the Personal Property Security Act, as set out in section 139 of the bill

Subsections 14(1) and (4) of the Execution Act, as set out in subsection 143(1) of the bill

Subsections 15(1) and (2) of the Execution Act, as set out in subsection 143(1) of the bill

Subsection 19(7) of the Execution Act, as set out in subsection 143(2) of the bill

Not that I'm in a hurry.

The Chair: Nicely done. Not a single mistake in it.

Are there any questions or comments, first of all? Shall the amendment carry? Carried.

I'm almost tempted to ask, shall we give her a hand for reading all of that correctly.

Are there any comments, questions or amendments to section 1?

Mrs. Sandals: I move that subsection 1(1) of the bill be amended by adding the following definition:

“‘communicate’ means,

“(a) send a signed writing, or

“(b) transmit information by any other means agreed to by the person transmitting the information and the person receiving the information,

“and ‘communication’ has a corresponding meaning; (‘communiquer’, ‘communication’))”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Ms. Mossop: I move that the French version of the definition of “entitlement holder” in subsection 1(1) of the bill be struck out and the following substituted:

“« titulaire du droit » La personne désignée nommément aux registres de l'intermédiaire en valeurs mobilières comme détentrice d'un droit intermédiaire opposable à cet intermédiaire. S'entend en outre de la personne qui obtient un droit intermédiaire par l'effet de l'alinéa 95(1)b) ou c). (« entitlement holder »)”

The Chair: Have you finished the reading?

Ms. Mossop: Oui, yes.

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that the definition of “entitlement order” in subsection 1(1) of the bill be struck out and the following substituted:

“‘entitlement order’ means a notice communicated to a securities intermediary directing the transfer or redemption of a financial asset to which the entitlement

holder has a security entitlement; (‘ordre relatif à un droit’))”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mr. Tascona: I have a question directed to the staff. Why did you change the definition there from “person” to “a notice?” What was the reasoning behind that? You changed the definition. Why did you do that? The language is pretty specific as to why. “Entitlement order” was already defined. You changed the definition of “entitlement order.” What’s the reason you changed that? You were referring to a person identified in the records of a securities intermediary as the person having the security entitlement and you changed it to mean “a notice communicated to a securities intermediary directing the transfer or redemption.” Why have you moved away from identification of a person to—

The Chair: Please begin by identifying yourself for Hansard.

Mr. Allen Doppelt: I’m Allen Doppelt, senior counsel, legal services branch, Ministry of Government Services. This amendment was one of the ones that was made as a result of the change to the notice provisions in section 3 of the bill. That’s the reason the wording was changed. The only change in “entitlement order” in the original wording in the first reading of the bill is “means a notice given,” and it’s been changed to “a notice communicated.”

Mr. Tascona: I don’t really see much change there.

Mr. Doppelt: That’s the only change; the one word in the definition of “entitlement order.”

Mr. Tascona: “Notice communicated.”

Mr. Doppelt: Instead of “notice given.” You have the new definition of “communicate.”

Mr. Tascona: I saw the new definition—

The Chair: Further questions?

Mr. Tascona: Mr. Chairman—“send a signed writing”. What is a signed writing? Is that a written letter? Is that what “a signed writing” means under the definition of “communicate” under (a)?

Mr. Doppelt: Yes.

Mr. Tascona: Would that be simply a written letter signed?

Mr. Doppelt: It could be, yes.

Mr. Tascona: What else could it be?

Mr. Doppelt: Well, no, that’s what it would be, and then in clause (b) would be by other means, electronic means for example, as long as both parties agree to it.

Mr. Tascona: I know (b) is electronic.

Mr. Doppelt: Right.

Mr. Tascona: But (a) is a signed writing. So that could be a letter that’s signed.

Mr. Doppelt: It could be. Usually the act refers to notices that are required to be given for various purposes. That would be the signed writing.

Mr. Tascona: Right. The signature of an individual.

Mr. Doppelt: Well, for example, if someone was sending a notice as the registered owner objecting to, or sending a notice to the issuer to prevent the security from

being transferred, they would send a notice and it would be—

Mr. Tascona: I know. I'm just saying it's a signed writing. Who signs it? Is it an individual—

Mr. Doppelt: The person, yes.

Mr. Tascona: —or it is a corporation?

Mr. Doppelt: No, it would be the person who's required to communicate it, to send it.

Mr. Tascona: So it's signed by a human being.

Mr. Doppelt: Yes.

Mr. Tascona: Then (b) is strictly an electronic transformation.

Mr. Doppelt: Likely, yes. That would be the other means, likely electronic.

The Chair: Further questions and comments on the government motion on page 4. Shall the amendment carry? Carried.

Mrs. Sandals: I move that the English version of the definition of "instruction" in subsection 1(1) of the bill be struck out and the following substituted:

"'instruction' means a notice communicated to the issuer of an uncertificated security that directs that the transfer of the security be registered or that the security be redeemed; ('instructions')"

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that subsection 1(1) of the bill be amended by adding the following definition:

"'knowledge' means actual knowledge, and 'know' and 'known' have corresponding meanings; ('connaissance', 'connaître', 'connu')"

The Chair: Questions and comments? Shall the amendment carry? Carried.

Ms. Mossop: I move that the French version of the definition of "security entitlement" in subsection 1(1) of the bill be struck out and the following substituted:

"« droit intermédiaire » Les droits et l'intérêt de propriété du titulaire du droit à l'égard d'un actif financier qui sont précisés à la partie VI. (« security entitlement »)"

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 1, as amendment, carry? Carried.

Section 2. Ms. Sandals.

Mrs. Sandals: I move that section 2 of the bill be struck out and the following substituted:

"Meaning of valid security

"2. A security is valid if it is issued in accordance with the applicable law described in subsection 44(1) and the constating provisions governing the issuer."

Is that a word, "constating?"

Mr. Doppelt: Yes.

Mrs. Sandals: Okay, we'll keep that word in then.

The Chair: Questions and comments?

Mr. Michael Prue (Beaches—East York): All I can see in the difference is that you've deleted (b). Why?

Mr. Doppelt: Clause (b) has been deleted because of the changes to section 57 of the act.

Mr. Prue: And we'll get to that.

Mr. Doppelt: Yes. At that point, if you have a question, I can explain why.

The Chair: I was hoping somebody would explain what "constating" means.

Mr. Doppelt: "Constating" or "basic provisions" would be the provisions in the incorporating document for a corporation.

The Chair: Thank you. Questions and comments? Shall the amendment carry? Carried.

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Mrs. Sandals: Thank you. I move that—

The Chair: Let me back up just one moment, please.

Shall section 2, as amended, carry? Carried.

Sorry, Mrs. Sandals.

Mrs. Sandals: I move that section 3 of the bill be struck out and the following substituted:

"Notice

"3.(1) For the purposes of this act, a person has notice of a fact if,

"(a) the person has knowledge of it;

"(b) the person has received a notice of it; or

"(c) information comes to the person's attention under circumstances in which a reasonable person would take cognizance of it.

"Giving a notice

"(2) A person gives a notice to another person by taking such steps as may be reasonably required to inform the other person in the ordinary course, whether or not the other person comes to know of it.

"Receiving a notice

"(3) A person receives a notice when,

"(a) the notice comes to the person's attention;

"(b) in the case of a notice under a contract, the notice is duly delivered to the place of business through which the contract was made; or

"(c) the notice is duly delivered to any other place held out by that person as the place for receipt of those notices.

"When notice is effective for a transaction

"(4) Notice, knowledge or a notice received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting the transaction and, in any event, from the time when it would have been brought to the attention of that individual if the organization had exercised due diligence.

"Same

"(5) For the purpose of subsection (4), an organization exercises due diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with those routines.

"Same

"(6) For the purpose of subsection (4), due diligence does not require an individual acting for the organization to communicate information unless,

"(a) that communication is part of the individual's regular duties; or

“(b) the individual has reason to know of the transaction and that the transaction would be materially affected by the information.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

There being no proposed amendments for sections 4, 5, 6 and 7, may I have consent for block consideration of sections 4 through 7, inclusive? Agreed.

Shall sections 4 through 7 carry? Carried.

Section 8.

Mrs. Sandals: I move that subsections 8(2) and (3) of the bill be struck out and the following substituted:

“Crown privileges, immunities

“(2) Nothing in this act shall be construed as affecting any privilege or immunity, at common law, in equity or under any other act, of the crown in right of Canada, the crown in right of Ontario or the crown in right of any other province of Canada, or of any servant of the crown.

“Securities issued by governments before act is in force

“(3) The provisions of this act that apply to an issuer of a security do not apply to a government or any agency of it as an issuer in respect of a security issued before this section comes into force, except as otherwise expressly provided in the terms and conditions of the security.”

I mentioned that there was one clause where the amendment was somewhat substantive. In this case, 8(2), we're removing the word “right” before “privilege.” The effect of that is, if the government is actually in the position of being an investor, then Bill 41, in essence, applies to the government in the same way as any other investor.

Subsection 8(3): In plain language, my understanding is that the effect of that is that Bill 41 applies to an individual who holds a province of Ontario bond, for example, so that individuals holding government securities would have their rights affected.

They will tell you if I've got this totally fouled up.

The Chair: Questions and comments?

Mr. Tascona: These amendments with respect to the crown—why are the exceptions needed under 8(2) and (3)?

Mr. Colin Nickerson: My name is Colin Nickerson. I manage the securities policy unit of the industrial and financial policy branch of the Ministry of Finance. I have with me Nick Smook, who is a lawyer in the ministry's legal services branch.

Just by way of general comment, there are existing privileges and immunities that apply to the crown that differ from the treatment, for example, of a public company. So the first subsection that we're dealing with here is intended to carry forward that treatment and make sure that crown immunities—for example, immunity from the jurisdiction of foreign courts, which arise at common law, or various other privileges and immunities—aren't affected by the bill and continue on.

Mr. Tascona: So the crown is treated differently than a public company. Give me an example of a financial

instrument that the crown would be issuing that would receive different treatment than a public company.

Mr. Nick Smook: My name's Nick Smook. I'm senior legal counsel with the Ministry of Finance legal services branch. I've also been counsel to the Ontario Financing Authority on all the province's debt issues since 1991.

An easy example, to answer your question: The Uniform Securities Transfer Act contemplates, in certain circumstances, people who have lost their securities or who have decided they have a claim against someone else's security giving a notice to an issuer or preventing the issuer from allowing it to be transferred to someone else to try and crystallize their rights. That individual, in certain circumstances, is given the opportunity of getting an injunction against the issuer. Under the Proceedings Against the Crown Act, you cannot get an injunction against the crown. This provision was intended to clarify that the crown was not losing that statutory immunity from injunction, by implication, through the other sections of the act that appear to contemplate issuers being subject to an injunction.

Colin's right: There are other immunities and privileges that the crown has. In addition, ministers of the crown similarly have the same immunities, to the extent that if you could get one against the minister, it would allow you effectively to get the same remedy against the crown itself. A lot of the immunities are set out in the Proceedings Against the Crown Act, but others do exist in common law.

The point to remember, both in (2) and (3), is that the intention of these subsections is to ensure that, to the extent the act implements changes from the existing state of affairs, they only go as far as we intend them to go. The door is open in (3), for example, should the crown and its investors decide that it makes sense for certain parts of the act to begin to apply to these existing securities, so that we can amend the terms of the securities and provide that they apply.

An example, in connection with (3): If anybody gives an issuer notice of an adverse interest in a share or a provincial bond that, let's say, you subscribe to, that you're the registered holder, as soon as they give us the adverse notice, if you try to negotiate it to someone else, we're under a statutory obligation to track that, to give notice to the person who's given us the notice of an adverse claim and give them an opportunity of providing us with security or getting some other declaratory relief against us.

The simple fact is, we don't play by those rules now; we never have. We haven't set up our controls within the Ontario Financing Authority or with any of our fiscal agents to be able to respond effectively to that kind of notice of an adverse claim. So our position is, for those existing securities, it's status quo: You don't have a right to stop us from effecting a transfer by giving us a notice of an adverse claim, unless the province and all the note-holders agree that that provision should start to apply to those securities.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Shall section 8, as amended, carry? Carried.

I request consent for block consideration of sections 9 through 16, as no amendments are proposed. Agreed? Agreed.

Shall sections 9 through 16 carry? Carried.

Shall section 17, as amended, carry, with the French amendment carried at the top of the meeting? Carried.

1620

May we consider sections 18 through 24 as a block as there are no amendments proposed? Agreed? Shall sections 18 through 24, inclusive, carry? Carried.

Section 25.

Mrs. Sandals: I move that the English version of clause 25(1)(c) of the bill be amended by striking out "having previously acquired control of the security entitlement" and substituting "having previously obtained control of the security entitlement."

The Chair: Shall the amendment carry?

Interjection.

The Chair: I'm sorry, questions and comments. I beg your pardon.

Mr. Tascona: You've changed the language from "acquired" to "obtained." My view of "acquired" would be that there be a monetary component, perhaps, to the word "acquired," as opposed to "obtained," which would be something you may have gotten through another method, a judgment or a transfer. What was the purpose of the change between "acquired" and "obtained"?

Mr. Doppelt: The purpose is to be consistent with the rest of the act. Whenever it refers to control, the act speaks in terms of obtaining control.

Mr. Tascona: So you missed that one. Okay.

The Chair: Further questions and comments? Shall the amendment carry? Carried.

Shall section 25, as amended, including the French amendment referred to earlier, carry? Carried.

Shall section 26, as amended with the French amendment earlier, carry? Carried.

We have an opportunity to block-consider sections 27 and 28. Do we have consent to block-consider sections 27 and 28? Agreed. Shall sections 27 and 28 carry? Carried.

Shall section 29, as amended with the French amendment, carry? Carried.

There being no amendments proposed to sections 30 through 40, do I have consent to block-consider sections 30 through 40? Agreed.

Shall sections 30 through 40 carry? Carried.

Shall section 41, as amended with the French amendment, carry? Carried.

Shall section 42 carry? Carried.

Shall section 43 carry? Carried.

Section 44.

Mrs. Sandals: I move that section 44 of the bill be struck out and the following substituted:

"Conflict of laws

"Law governing validity of security

"44(1) The validity of a security is governed by the following laws:

"1. If the issuer is incorporated under a law of Canada, the law, other than the conflict of law rules, of Canada.

"2. If the issuer is the crown in right of Canada, the law, other than the conflict of law rules, of Canada.

"3. If the issuer is the crown in right of a province in Canada, the law, other than the conflict of law rules, of the province.

"4. If the issuer is the commissioner of a territory in Canada, the law, other than the conflict of law rules, of the territory.

"5. In any other case, the law, other than the conflict of law rules, of the jurisdiction under which the issuer is incorporated or otherwise organized.

"Law governing other matters re securities

"(2) The law, other than the conflict of law rules, of the issuer's jurisdiction governs,

"(a) the rights and duties of the issuer with respect to the registration of transfer;

"(b) the effectiveness of the registration of transfer by the issuer;

"(c) whether the issuer owes any duties to an adverse claimant to a security; and

"(d) whether an adverse claim can be asserted against a person,

"(i) to whom the transfer of a certificated or uncertificated security is registered, or

"(ii) who obtains control of an uncertificated security.

"Issuer may specify law of another jurisdiction

"(3) The following issuers may specify the law of another jurisdiction as the law governing the matters referred to in clauses (2)(a) to (d):

"1. An issuer incorporated or otherwise organized under the law of Ontario.

"2. The crown in right of Ontario.

"Law governing enforceability of security

"(4) Whether a security is enforceable against an issuer despite a defence or defect described in sections 57 to 59 is governed by the following laws:

"1. If the issuer is incorporated under a law of Canada, the law, other than the conflict of law rules, of the province or territory in Canada in which the issuer has its registered or head office.

"2. If the issuer is the crown in right of Canada, the law, other than the conflict of law rules, of the issuer's jurisdiction.

"3. If the issuer is the crown in right of a province in Canada, the law, other than the conflict of law rules, of the province.

"4. If the issuer is the commissioner of a territory in Canada, the law, other than the conflict of law rules, of the territory.

"5. In any other case, the law, other than the conflict of law rules, of the jurisdiction under which the issuer is incorporated or otherwise organized.

"Definition

"(5) In this section,

“‘issuer’s jurisdiction’ means the jurisdiction determined in accordance with the following rules:

“1. If the issuer is incorporated under a law of Canada, the province or territory in Canada in which the issuer has its registered or head office or, if permitted by the law of Canada, another jurisdiction specified by the issuer.

“2. If the issuer is the crown in right of Canada, the jurisdiction specified by the issuer.

“3. If the issuer is the crown in right of a province in Canada, the province or, if permitted by the law of that province, another jurisdiction specified by the issuer.

“4. If the issuer is the commissioner of a territory in Canada, the territory or, if permitted by the law of that territory, another jurisdiction specified by the issuer.

“5. In any other case, the jurisdiction under which the issuer is incorporated or otherwise organized or, if permitted by the law of that jurisdiction, another jurisdiction specified by the issuer.”

The Chair: Questions or comments? Shall the amendment carry? Carried.

Shall section 44, as amended, carry? Carried.

Section 45, Mrs. Sandals.

Mrs. Sandals: I’m catching my breath.

The Chair: Ms. Mossop.

Ms. Mossop: I move that subsection 45(1) of the bill be struck out and the following substituted:

“Matters governed by law of securities intermediary’s jurisdiction

“(1) The law, other than the conflict of law rules, of the securities intermediary’s jurisdiction governs,

“(a) acquisition of a security entitlement from the securities intermediary;

“(b) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

“(c) whether the securities intermediary owes any duty to a person who has an adverse claim to a security entitlement; and

“(d) whether an adverse claim may be asserted against a person who,

“(i) acquires a security entitlement from the securities intermediary, or

“(ii) purchases a security entitlement, or interest in it, from an entitlement holder.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 45, as amended with the French amendment, carry? Carried.

Section 46, Ms. Sandals.

Mrs. Sandals: I move that section 46 of the bill be amended by striking out “other than the rules governing the conflict of laws” and substituting “other than the conflict of law rules.”

The Chair: Questions and comments?

Mr. Tascona: I have to ask you, why did you change the language on that? What did you change? It means almost the same, to me.

Mr. Doppelt: It was done as a result of discussion with the other provinces that are working on this legislation, to simplify the wording. It really isn’t a substantive change at all; it’s really drafting stuff.

Mr. Tascona: Okay. Thanks.

The Chair: Shall the amendment carry? Carried.

Shall section 46, as amended, carry? Carried.

Shall section 47 carry? Carried.

Section 48.

Ms. Mossop: I move that subsection 48(2) of the bill be amended by striking out “giving a notice of seizure to the issuer” and substituting “serving a notice of seizure on the issuer.”

The Chair: Questions and comments? Seeing none, shall the amendment carry? Carried.

Shall section 48, as amended, carry? Carried.

Mr. Prue: We all deserve a medal at the end of this.

The Chair: The thought has crossed the mind of the Chair. The Chair observes that if you think we deserve a medal, try to imagine what these people sitting here at the table must have been going through for months. These guys are the heroes.

Mr. McMeekin: Mr. Chair, I hope this is on TV.

The Chair: Like most things pertaining to securities legislation, this is done in near perfect anonymity, other than that which is preserved by Hansard.

Section 49: Questions and comments?

1630

Mrs. Sandals: I move that section 49 of the bill be amended by striking out “giving a notice of seizure to the issuer” and substituting “serving a notice of seizure on the issuer.”

The Chair: Questions and comments?

Mr. Tascona: I take it this is just form.

Mr. Doppelt: Yes, although service is a more formal process—

Mr. Tascona: Much more formal.

Mr. Doppelt: —than simply giving a notice, and that’s consistent with the wording of executions acts across the country. So that’s why the change was made.

Mr. Tascona: Okay. Thank you.

The Chair: Shall the amendment carry? Carried.

Shall section 49, as amended, carry? Carried.

We’re moving.

Section 50.

Mrs. Sandals: I move that section 50 of the bill be amended by striking out “giving a notice of seizure to the securities intermediary” and substituting “serving a notice of seizure on the securities intermediary.”

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 50, as amended, carry with the French amendment? Carried.

Section 51.

Mrs. Sandals: I move that section 51 of the bill be amended by striking out “giving a notice of seizure to the secured party” in the portion before paragraph 1 and substituting “serving a notice of seizure on the secured party.”

The Chair: It sounds as provocative as anything we've heard so far today. Questions and comments?

Shall the amendment carry? Carried.

Shall section 51, as amended, with the French amendment, carry? Carried.

There being no amendments to section 52, shall section 52 carry? Carried.

Section 53, questions and comments?

Ms. Mossop: I move that the French version of subsection 53(1) of the bill be struck out and the following substituted:

« Règles de la preuve: valeurs mobilières avec certificat

« (1) Les règles de la preuve énoncées au présent article s'appliquent aux instances judiciaires portant sur des valeurs mobilières avec certificat et intentées contre leur émetteur. »

The Chair: Questions and comments? They must be in French, I suppose.

Shall the amendment carry? Carried.

Mrs. Sandals: I move that subsections 53(2) and (3) of the bill be struck out and the following substituted:

"Admission of signatures

"(2) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary endorsement is admitted.

"Same

"(3) A signature on a security certificate is presumed to be genuine and authorized but, if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature."

The Chair: Questions and comments?

Mr. Tascona: I understand what you're trying to do under subsection 53(2), but how specific are we dealing with here? "Unless specifically denied in the pleadings": Are you saying, "I deny paragraph 5 of the statement of claim," or do you have to be even more specific than that in terms of why you're denying it?

Mr. Doppelt: Actually, this is a continuation of a provision that's already in our existing Business Corporations Act. It says "specifically denied." It means you deny that the person whose signature is claimed to be on the certificate in fact signed it.

Mr. Tascona: No, I know, but we're talking about pleadings here, so we're talking about a claim.

Mr. Doppelt: Right, in legal proceedings, yes.

Mr. Tascona: You changed this from "unless specifically put in issue in the pleadings."

Mr. Doppelt: Right, to "denied," and that was for uniformity of language with the other provinces' legislation.

Mr. Tascona: So it would be as simple as saying, "I deny this paragraph in the claim."

Mr. Doppelt: I think, actually, "put in issue" and "denied" fundamentally have the same meaning, but for consistency of language with the other proposed securities transfer acts—the same wording is used in the Alberta bill.

Mr. Tascona: Okay. Thanks.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Ms. Mossop: I move that the French version of subsections 53(4) and (5) of the bill be struck out and the following substituted:

« Recouvrement sur présentation du certificat

« (4) Sur production des certificats de valeur mobilière dont la signature est admise ou prouvée, leur détenteur obtient gain de cause, sauf si le défendeur soulève un moyen de défense ou l'existence d'un vice mettant en cause la validité de ces valeurs mobilières.

« Preuve de l'inopposabilité du moyen de défense ou du vice

« (5) Si l'existence de moyens de défense ou d'un vice mettant en cause la validité des valeurs mobilières est établie, il incombe au demandeur d'en prouver l'inopposabilité:

« a) soit à lui-même;

« b) soit à la personne dont il invoque les droits. »

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 53, as amended, carry? Carried.

Section 54?

Ms. Mossop: I move that the French version of paragraph 3 of subsection 54(3) of the bill be struck out and the following substituted:

« 3. Dans le cas d'un certificat de valeur mobilière qui a été volé, il a agi tout en étant avisé de l'opposition. »

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 54, as amended, carry? Carried.

Shall section 55, as amended with the French amendment, carry? Carried.

Section 56.

Mrs. Sandals: I move that subsection 56(2) of the bill be struck out and the following substituted:

"Same

"(2) A reference described in clause (1)(b) does not by itself constitute notice to a purchaser for value of a defect that goes to the validity of the security, even if the security certificate expressly states that a person accepting it admits notice."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 56, as amended, carry? Carried.

Section 57.

Mrs. Sandals: I move that section 57 of the bill be struck out and the following substituted:

"Enforcement of security

"Unauthorized signature

"57(1) An unauthorized signature placed on a security certificate before or in the course of issue is ineffective except that the signature is effective in favour of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by,

"(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security certificate or of any similar security cer-

tificate or with the immediate preparation for signing of any of those security certificates; or

“(b) an employee of the issuer, or of any persons referred to in clause (a), entrusted with responsible handling of the security certificate.

“Limitation re unauthorized signature—securities issued by governments

“(2) Where an unauthorized signature described in subsection (1) is placed on a security certificate issued by a government or agency of it, the signature is ineffective except that the signature is effective in favour of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by an employee of the issuer entrusted with responsible handling of the security certificate.

“Defect going to validity

“(3) A security issued with a defect going to its validity is enforceable against the issuer if held by a purchaser for value and without notice of the defect and, in the case of such a security issued by a government or agency of it, if there has been substantial compliance with the legal requirements governing the issue.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 57, as amended, carry? Carried.

Section 58.

Mrs. Sandals: I move that section 58 of the bill be struck out and the following substituted:

“Lack of genuineness of certificated security

“58. Except as otherwise provided in subsection 57(1) or (2), lack of genuineness of a certificated security is a complete defence, even against a purchaser for value and without notice of the lack of genuineness.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 58, as amended, carry? Carried.

There being no amendments proposed to sections 59 to 61, inclusive, do I have consent for block consideration? Agreed.

Shall sections 59 through 61, inclusive, carry? Carried.

Section 62.

1640

Mrs. Sandals: I move that clause 62(b) of the bill be struck out and the following substituted:

“(b) the security is an uncertificated security and the registered owner has been given a notice of the restriction by a person required to give such notice in order to make the restriction effective.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 62, as amended, carry? Carried.

There being no proposed amendments to sections 63 through 66, inclusive, consent for block consideration? Agreed.

Shall sections 63 through 66, inclusive, carry? Carried.

Section 67.

Mrs. Sandals: I move that subsections 67(1), (2) and (3) of the bill be struck out and the following substituted:

“Overissue

“(1) Except as otherwise provided in subsections (2) and (3), the provisions of this act that make a security enforceable against an issuer despite a defence or defect or that compel a security's issue or reissue do not apply to the extent that the application of such provision would result in an overissue.

“Same

“(2) If an identical security not constituting an over-issue is reasonably available for purchase, a person entitled to issue of a security, or a person entitled to enforce a security against an issuer despite a defence or defect as provided under section 57, 58 or 59 or under a similar law of another jurisdiction, may compel the issuer to purchase the security and deliver it, if certificated, or register its transfer, if uncertificated, against surrender of any security certificate the person holds.

“Same

“(3) If an identical security not constituting an over-issue is not reasonably available for purchase, a person entitled to issue of a security, or a person entitled to enforce a security against an issuer despite a defence or defect as provided under section 57, 58 or 59 or under a similar law of another jurisdiction, may recover from the issuer the price that the last purchaser for value paid for the security with interest from the date of the person's demand.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 67, as amended, carry? Carried.

Shall section 68 carry? Carried.

Section 69.

Ms. Mossop: I move that the French version of subsection 69(3) of the bill be amended by striking out “connaissait” and substituting “était avisé.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 69, as amended, carry? Carried.

There being no amendments proposed for sections 70 through 85, I request consent for block consideration of sections 70 through 85, inclusive. Agreed.

Shall sections 70 through 85, inclusive, carry? Carried.

Section 86.

Ms. Mossop: I move that the English version of clause 86(1)(d) of the bill be struck out and the following substituted:

“(d) any applicable law relating to the collection of taxes has been complied with;”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 86, as amended, carry? Carried.

Shall section 87 carry? Carried.

Section 88.

Ms. Mossop: I move that subsection 88(1) of the bill be amended by striking out “giving a notice to the issuer” in the portion before clause (a) and substituting “communicating a notice to the issuer.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 88, as amended, carry? Carried.

Section 89.

Ms. Mossop: I move that the French version of subsection 89(1) of the bill be amended by striking out "remet promptement" in the portion before paragraph 1 and substituting "donne promptement."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 89, as amended, carry? Carried.

Shall section 90 carry? Carried.

Section 91.

Ms. Mossop: I move that subclause 91(1)(b)(ii) of the bill be amended by striking out "after a demand made" at the beginning and substituting "after a demand."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 91, as amended, carry? Carried.

Shall section 92 carry? Carried.

Section 93.

Ms. Mossop: I move that clause 93(a) of the bill be amended by striking out "give notice" and substituting "give a notice."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Ms. Mossop: I move that the English version of clause 93(b) of the bill be amended by striking out "receiving notice" and substituting "receiving a notice."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 93, as amended, carry? Carried.

Shall section 94 carry? Carried.

Section 95.

Ms. Mossop: I move that the English version of clause 95(3)(a) of the bill be amended by striking out "specifically endorsed" and substituting "specially endorsed."

The Chair: Questions and comments?

Mr. Tascona: That change there, is that just a typographical error? Is that what you're saying?

Mr. Doppelt: It's a typographical error. There's no such thing as "specifically endorsed."

Mr. Tascona: What does "specially endorsed" mean?

Mr. Doppelt: Well, when a security is specially endorsed, it would be endorsed by being signed in favour of a specific person, as opposed to being endorsed in blank where you just simply sign it. That's the fundamental difference: You specially endorse it in favour of a particular person.

Mr. Tascona: Okay. Thank you.

The Chair: Shall the amendment carry? Carried.

Shall section 95, as amended, with the French amendment, carry? Carried.

Shall section 96, as amended, with the French amendment, carry? Carried.

Shall section 97, as amended, with the French amendment, carry? Carried.

Shall section 98, as amended, with the French amendment, carry? Carried.

Shall section 99 carry? Carried.

Shall section 100 carry? Carried.

Shall section 101, with the French amendment, carry? Carried.

Shall section 102, with the French amendment, carry? Carried.

Shall section 103 carry? Carried.

Section 104.

Mrs. Sandals: I move that subsection 104(2) of the bill be struck out and the following substituted:

"Same

"(2) If a legal proceeding based on an adverse claim could not have been brought against an entitlement holder under section 96, a legal proceeding based on the adverse claim may not be brought against a person who purchases a security entitlement, or interest in it, from the entitlement holder."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that subparagraph 2 i of subsection 104(3) of the bill be amended by striking out "securities entitlement" and substituting "security entitlement."

The Chair: Questions and comments? Shall the amendment carry?

Shall section 104, as amended, with the French amendment, carry? Carried.

Shall section 105, with the French amendment, carry? Carried.

Shall section 106, with the French amendment, carry? Carried.

There being no amendments proposed for sections 107 through 116, inclusive, shall these sections be treated as a block motion? Agreed.

Section 117.

1650

Mrs. Sandals: I move that the portion of subsection 67(2) of the Business Corporations Act before clause (a) of that subsection, as set out in subsection 117(1) of the bill, be amended by striking out "as described in paragraph 1 of subsection 87(1) of the Securities Transfer Act, 2005" and substituting "as described in section 87 of the Securities Transfer Act, 2005."

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 117, as amended, carry? Carried.

There being no proposed amendments to sections 118 through 122, inclusive, shall these be considered in a block? Agreed.

Shall sections 118 through 122 carry? Carried.

Section 123.

Ms. Mossop: I move that the French version of the definition of "security entitlement" in subsection 1(1) of the Personal Property Security Act, as set out in subsection 123(8) of the bill, be struck out and the following substituted:

"« droit intermédié » s'entend au sens de la Loi de 2005 sur le transfert des valeurs mobilières. ('security entitlement') »"

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 123, as amended, plus the French amendment, carry? Carried.

Shall section 124 carry? Carried.

Section 125.

Mrs. Sandals: I move that section 125 of the bill be struck out and the following substituted:

"125. Clause 5(1)(b) of the act is amended by striking out 'a security'."

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 125, as amended, carry? Carried.

Section 126.

Mrs. Sandals: I move that section 7 of the Personal Property Security Act, as set out in section 126 of the bill, be struck out and the following substituted:

"Conflict of laws—law of debtor's jurisdiction

"7(1) The validity,

"(a) of a security interest in,

"(i) an intangible, or

"(ii) goods that are of a type that are normally used in more than one jurisdiction, if the goods are equipment or inventory leased or held for lease by a debtor to others; and

"(b) of a non-possessory security interest in an instrument, a negotiable document of title, money and chattel paper,

"shall be governed by the law of the jurisdiction where the debtor is located at the time the security interest attaches.

"Change of location

"(2) If a debtor relocates to another jurisdiction, a security interest perfected in accordance with the applicable law as provided in subsection (1) continues perfected until the earliest of,

"(a) 60 days after the day the debtor relocates to another jurisdiction;

"(b) 15 days after the day the secured party receives notice that the debtor has relocated to another jurisdiction; and

"(c) the day that perfection ceases under the previously applicable law.

"Location of debtor

"(3) For the purposes of this section and section 7.1, a debtor shall be deemed to be located at the debtor's place of business if there is one, at the debtor's chief executive office if there is more than one place of business, and otherwise at the debtor's principal place of residence."

The Chair: Questions and comments?

Mr. Tascona: Under "Change of location" it says, "(2) If a debtor relocates to another jurisdiction, a security interest perfected in accordance with the applicable law as provided in subsection (1) continues perfected until the earliest of"—so you've got "60 days after the day the debtor relocates to another jurisdiction; (b) 15 days," and then you have the use of the wording "and" for "(c) the day that perfection ceases under the previously applicable law." I take it that any of these situations can apply. So why are you using the word "and"?

Mr. Doppelt: This is restoring the subsection to the current wording that has been in the Personal Property Security Act for many years. It's because of the three items; it's whichever occurs first. That's just a matter of legislative drafting.

Mr. Tascona: I know that. I just wonder, how did they ever come up—you know from the history of it—with 60 days in (a)? How did they ever come up with that time period?

Mr. Doppelt: Well, the whole point of this provision is, it's usually a case where, for example, a debtor owns a car. Let's say the person moves from Manitoba to Ontario. It's for the benefit of the secured creditor, who may not have knowledge that the debtor has moved, then—

Mr. Tascona: No, I understand that.

Mr. Doppelt: Right. But the point is that they're given a period in which that secured creditor is fully protected, that whole 60-day period.

Mr. Tascona: But why did they come up with 60 days?

Mr. Doppelt: It was just viewed as a reasonable period of protection in which, even without knowledge, the security interest would become unperfected unless a registration occurred in Ontario.

Mr. Tascona: It would seem to me—and there's not going to be any change to this—it would have been more fair if (b) provided where the person gets notice; 15 days after the person gets notice. It's entirely possible the person doesn't get notice until after the 60 days, so whatever was perfected has been lost.

Mr. Doppelt: Right. But remember, the person who's at risk would be, for example, a buyer of the car in Ontario. As they search in the Ontario Personal Property Security Registration, they're not going to discover that registration, and if they buy within that 60-day period, they're at risk. Once those 60 days are up, then they would take clear of it, because the security interest would no longer be protected. That's been in the act since 1967, actually, and there are similar rules in every Personal Property Security Act across Canada.

Mr. Tascona: Has that part ever been litigated?

Mr. Doppelt: I don't think there has been much litigation concerning this provision.

The Chair: Further questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that the English version of section 7.1 of the Personal Property Security Act, as set out in section 126 of the bill, be amended by striking out "is governed" wherever it appears in subsections (1) and (2) and substituting in each case "shall be governed."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that subsection 7.1(3) of the Personal Property Security Act, as set out in section 126 of the bill, be struck out and the following substituted:

"Determination of jurisdiction

"(3) For the purposes of this section,

“(a) the location of the debtor is determined by subsection 7(3);

“(b) the issuer’s jurisdiction is determined under section 44 of the Securities Transfer Act, 2005;

“(c) the securities intermediary’s jurisdiction is determined under section 45 of the Securities Transfer Act, 2005.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that paragraph 1 of subsection 7.1(4) of the Personal Property Security Act, as set out in section 126 of the bill, be amended by striking out “for purposes of this provision, this part, this act or the law of that jurisdiction” and substituting “for purposes of the law of that jurisdiction, this act or any provision of this act.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mrs. Sandals: I move that the English version of paragraph 2 of subsection 7.1(4) of the Personal Property Security Act, as set out in section 126 of the bill, be amended by striking out “is governed” and substituting “shall be governed.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 126, as amended, plus the French amendment, carry? Carried.

Well done. We made it through it.

Shall section 127 carry? Carried.

Section 128.

Ms. Mossop: I move that section 8.1 of the Personal Property Security Act, as set out in section 128 of the bill, be struck out and the following substituted:

“Interpretation—law of jurisdiction

“8.1 For the purposes of sections 5 to 8, a reference to the law of a jurisdiction is a reference to the internal law of that jurisdiction, excluding its conflict of law rules.”

1700

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 128, as amended, carry? Carried.

Shall section 129, with the French amendment, carry? Carried.

Shall section 130 carry? Carried.

Shall section 131, with the French amendment, carry? Carried.

Shall section 132 carry? Carried.

Shall section 133 carry? Carried.

Shall section 134, with the French amendment, carry? Carried.

Shall section 135 carry? Carried.

Shall section 136, with the French amendment, carry? Carried.

Section 137: Ms. Mossop.

Ms. Mossop: I move that section 28.1 of the Personal Property Security Act, as set out in section 137 of the bill, be struck out and the following substituted:

“Rights of protected purchaser

“28.1(1) This act does not limit the rights that a protected purchaser of a security has under the Securities Transfer Act, 2005.

“Same

“(2) The interest of a protected purchaser of a security under the Securities Transfer Act, 2005, takes priority over an earlier security interest, even if perfected, to the extent provided in that act.

“Same

“(3) This act does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under the Securities Transfer Act, 2005.”

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 137, as amended, carry?

Section 138.

Ms. Mossop: I move that subclause 30.1(4)(b)(iii) of the Personal Property Security Act, as set out in section 138 of the bill, be struck out and the following substituted:

“(iii) if the secured party obtained control through another person under clause 25(1)(c) of the Securities Transfer Act, 2005, when the other person obtained control; or”

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Further amendments.

Ms. Mossop: I move that the English version of subsection 30.1(8) of the Personal Property Security Act, as set out in section 138 of the bill, be amended by striking out “is governed” and substituting “shall be governed.”

The Chair: Questions and comments?

Shall the amendment carry?

Shall section 138, as amended, plus the French amendment, carry? Carried.

Section 139.

Ms. Mossop: I move that subsection 56(7) of the Personal Property Security Act, as set out in section 139 of the bill, be amended by striking out “clause 1(2)(d) of this act” and substituting “subclause 1(2)(d)(ii) of this act.”

The Chair: Comments?

Shall the amendment carry? Carried.

Shall section 139, as amended, plus the French amendment, carry? Carried.

Shall section 140 carry? Carried.

Shall section 141 carry? Carried.

Shall section 142 carry? Carried.

Section 143.

Ms. Mossop: I move that subsection 14(3) of the Execution Act, as set out in subsection 143(1) of the bill, be struck out and the following substituted:

“Seizure includes dividends, other rights to payment

“(3) Every seizure and sale made by the sheriff shall include all dividends, distributions, interest and other rights to payment in respect of the security, if issued by an issuer incorporated or otherwise organized under

Ontario law, or in respect of the security entitlement and, after the seizure becomes effective, the issuer or securities intermediary shall not pay the dividends, distributions or interest or give effect to other rights to payment to or on behalf of anyone except the sheriff or a person who acquires or takes the security or security entitlement from the sheriff."

The Chair: Questions or comments?

Shall the amendment carry? Carried.

Further amendments?

Ms. Mossop: I move that the definition of "seized security" in subsection 16(9) of the Execution Act, as set out in subsection 143(1) of the bill, be amended by striking out "or security entitlement."

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 143, as amended, plus the French amendment, carry? Carried.

Shall sections 144 through 146, inclusive, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 41, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Just before we all adjourn, I think on behalf of investors, institutions, brokers, lawyers, underwriters, clients, banks and everyone involved in the exchange of securities, I want to thank those of you who have come before us today. I commend you on what must surely have been a very painstaking and arduous task, carried out without a whole lot of public visibility. We need world-class financial markets to enable Ontario to allow our entrepreneurs and our best companies to grow and expand. For that, the fuel is money, and your work is going to help make Ontario's capital market as efficient as the people, the investors and the companies that this act will serve. On behalf of the committee I tell you, well done.

Mrs. Sandals: Thank you, Chair, for keeping us moving along expeditiously.

The Chair: With that in mind, we're adjourned.

The committee adjourned at 1706.

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**Legislative Assembly
of Ontario**
Second Session, 38th Parliament

**Assemblée législative
de l'Ontario**
Deuxième session, 38^e législature

**Official Report
of Debates
(Hansard)**

Thursday 1 June 2006

**Journal
des débats
(Hansard)**

Jeudi 1^{er} juin 2006



**Standing committee on
the Legislative Assembly**

**Provincial Parks and
Conservation Reserves Act, 2006**

**Comité permanent de
l'Assemblée législative**

**Loi de 2006 sur les parcs
provinciaux et les réserves
de conservation**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 1 June 2006

Jeudi 1^{er} juin 2006*The committee met at 1006 in room 151.*PROVINCIAL PARKS AND
CONSERVATION RESERVES ACT, 2006
LOI DE 2006 SUR LES PARCS
PROVINCIAUX ET LES RÉSERVES
DE CONSERVATION

Consideration of Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006, repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts / Projet de loi 11, Loi édictant la Loi de 2006 sur les parcs provinciaux et les réserves de conservation, abrogeant la Loi sur les parcs provinciaux et la Loi sur la protection des régions sauvages et apportant des modifications complémentaires à d'autres lois.

The Chair (Mr. Bob Delaney): Good morning, ladies and gentlemen. This is the standing committee on the Legislative Assembly. Welcome. This morning we are going to be considering Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006, repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts.

SUBCOMMITTEE REPORT

The Chair: Our first order of business is the reading of the subcommittee on committee business. I recognize Mr. Rinaldi.

Mr. Lou Rinaldi (Northumberland): Your subcommittee met on Tuesday, May 16, 2006, to consider the method of proceeding on Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006, repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts.

1. That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 11 on the Ontario parliamentary channel and the committee's website.

2. That the committee meet for public hearings on Thursday, June 1, 2006, and Thursday, June 8, 2006, from 10 a.m. to 12 p.m. and 3:30 p.m. to 6 p.m. subject to witness demand.

3. That interested parties who wish to be considered to make an oral presentation on Bill 11 contact the clerk of the committee by 5 p.m. Monday, May 29, 2006.

4. That, if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear, by 5:30 p.m. on Monday, May 29, 2006, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled, by 10 a.m. on Tuesday, May 30, 2006.

5. That organizations be offered a maximum of 20 minutes for their presentation and individuals be offered a maximum of 10 minutes for their presentations, and that the clerk of the committee, with the authorization of the Chair, may amend the amount of time allotted for organizations to 15-minute presentations in order to accommodate all requests to appear.

6. That the ministry provide the committee with technical briefing binders on Bill 11 prior to the start of public hearings.

7. That the deadline for written submissions on Bill 11 be immediately after the last deputation or 12 noon on Thursday, June 8, 2006.

8. That the research officer provide the committee with a summary of witness presentations by Tuesday, June 6, 2006.

9. That, for administrative purposes, proposed amendments should be filed with the clerk of the committee by 10:15 a.m. on Thursday, June 8, 2006, or after the last deputation.

10. That the committee meet for the purpose of clause-by-clause consideration of Bill 11 on the afternoon of Thursday, June 8, 2006.

11. That the clerk of the committee, in consultation with the chair, be authorized prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you. Discussion on the subcommittee report?

Mr. Gilles Bisson (Timmins-James Bay): Just for the record, from the conversation we had this morning, I want to make sure we understand that we may very well be done with clause-by-clause on Thursday morning, but if need be, we will be back in the afternoon.

The Chair: That's correct.

Mr. Bisson: And that we'll be allowed to present amendments up until—

The Chair: That's correct.

Shall the report of the subcommittee carry? Carried.

PEACEFUL PARKS COALITION

The Chair: This morning we have a number of presentations. Our first presentation is from the Peaceful Parks Coalition. AnnaMaria Valastro, please come and have a seat. These are fairly informal. You'll have 15 minutes to make your deputation. If you leave any of the time remaining, it will be divided among the parties, as appropriate, for questions. Please begin by stating your names for the purposes of Hansard and then proceed.

Ms. AnnaMaria Valastro: My name is AnnaMaria Valastro. I'm with the Peaceful Parks Coalition. We're a volunteer grassroots people's coalition that formed in 1999 as a reaction to Ontario's Living Legacy. Ontario's Living Legacy established many new protected areas, but we felt protection was in name only. Peaceful Parks has campaigned extensively to raise this issue with the public, including a door-to-door canvass during the last by-election, and to move this bill to committee. So we're hoping and anticipating that this process will result in meaningful and progressive changes to Bill 11.

This process here today offers Ontarians the best possible opportunity to define the role of the province's protected areas into the future and establish Ontario as a leader in environmental protection, so we're very excited to be here today. However, we believe that Bill 11 is a failure that simply legislates many of the flaws of the old Provincial Parks Act and entrenches regressive measures.

Here are some of our concerns. "Ecological integrity" is currently an empty statement in Bill 11. It is not defined in any measurable terms, and the numerous exceptions permitted under this act betray the very notion of maintaining and restoring ecological integrity. We're in the 21st century, a new century, and this century belongs to people that are much younger than us. They have exceptionally high levels of education, and passing empty legislation will not serve them well, nor will they be fooled.

We urge this committee to take its time, research the meaning of ecological integrity and then apply it to all possible activities and management options proposed under this new legislation. While the bill talks about ecological integrity as being the first priority in park management, it's not supported throughout the bill. This is a big concern for us. We want it to be meaningful and have substance.

If ecological integrity is to be the first priority in park management, then we must acknowledge that the province's protected areas cannot be all things to all people. If ecological integrity is to be the first priority, as Bill 11 states, then protected areas must be managed as biological reserves, first and foremost. This is what we would like to see. This does not in any way restrict access to the province's protected areas to anyone, but it does define how one can access these areas, how they can move through these areas and be in these areas.

It is important that we all acknowledge right here and right now that many activities being pushed into protected areas are intrusive and have negative environ-

mental impacts. I don't think anyone here can say that all activities that want to be in these parks have no impact. No one is being fooled when one argues that motorboats travelling down small rivers do not cause shoreline erosion, damage birds' nests on the water's edge and fish habitat, nor is anyone being fooled when the argument is put forward that motorized vehicles such as ATVs and snowmobiles do not leave a stench of gasoline, ruts in the ground and disturb wildlife. No one is being fooled when someone puts forth the argument that roads for industrial activities such as mining and forestry, and private development such as private cottages in Rondeau Provincial Park, uphold ecological integrity. We're just too educated; we know too much. These sorts of arguments do not have credibility in the broader public.

The reality is that we're only talking about 12% of all crown land. It's a small fraction of all the landscape in this province, and this is the reality of what we're talking about. Setting a strong precedent as to how people can move through these areas will only strengthen appreciation for these areas and go a long way to preserving biological integrity, which is the stated goal of Bill 11.

Therefore, we're asking the committee to withdraw subsection 7(2) in reference to wilderness parks. Subsection 7(2) states, "visitors travel primarily by non-motorized means." This is a new definition that's been imposed in Bill 11. We are asking the committee to restore the original wording, which states, "visitors travel by non-mechanized means." It's a huge difference. The purpose of wilderness parks is to allow nature to function naturally and that we move through these areas in a way that leaves the least footprints.

We're also asking the committee to add a section that reads, "Private mechanized vehicles are prohibited in nature reserves, wilderness and natural environment zones and other classes of parks." In other parks there are zones that have a higher degree of protection than, let's say, development zones or recreational zones, and in those areas that are recognized as being biologically important, we're asking the committee to emphasize that motorized traffic be prohibited in those areas as well. Often these areas are very small compared to the rest of the park.

We're asking the committee to withdraw sections 19 and 20, which permit access roads for industrial purposes such as mining, forestry and transmission lines. The very presence of roads has been proven to fragment habitat, increase roadkill and open up otherwise inaccessible areas to poachers and unauthorized motorized traffic. Bill 11 right now has all these qualifiers as to when these roads can be permitted: cost is not to be an issue, convenience is not to be an issue. If that's the case, then they simply shouldn't be in protected areas at all.

We are also asking this committee to withdraw sections of Bill 11 that address logging in Algonquin Park. It is a complex issue that requires a thorough public debate that assesses economic and environmental impacts. It should be debated and legislated independently of Bill 11. Our concern is that Bill 11 will make

forestry legal in Algonquin Park without a public debate and define ecological integrity against this permitted activity, reducing the definition of ecological integrity to the lowest denominator. We think that logging in Algonquin Park is controversial. It should be dealt with respectfully and with a full public debate. That was not done with the establishment of Bill 11.

At this point, I want to just pass the floor to Anita Krajnc, my colleague.

Ms. Anita Krajnc: Hi. Thank you for the opportunity to speak before this committee. My name is Anita Krajnc. I was one of the original co-founders of Peaceful Parks Coalition and currently volunteer for the organization. I'm also an assistant professor in the department of political studies at Queen's University.

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I'd like to address section 14 of the act and start off with what our recommendation is. The Peaceful Parks Coalition recommends the phase-out of sport hunting in all protected areas, both conservation reserves and provincial parks. Currently, subsection 14(1) reads, "Hunting is not permitted in provincial parks unless it is allowed by regulation made under the Fish and Wildlife Conservation Act." We have a problem with this. We feel that this section is actually quite deceiving. Currently, it's not treated as an exception but rather a rule. Before the introduction of Ontario's Living Legacy in January 1999, one fourth of all parks in protected areas was exempted from this prohibition on sport hunting. With the introduction of Ontario's Living Legacy by the Tory government in 1999, this figure increased to a colossal 69%. How could that be an exception? Is 69% an exception or is it a rule? We find this sort of doublespeak in the previous legislation and in the current proposed legislation.

In reality, the act is deceiving because sport hunting is permitted in most parks. We believe that allowing some form of recreational hunting in a majority of our protected areas means that these parks are not really protected at all. Our vision of parks and protected areas is that they are wildlife sanctuaries, and I think the majority of the public holds that position. Subsection 14(1) does not reflect the public preferences of the vast majority of Ontario citizens, in particular the younger generations. I'm a member of generation X and I certainly know that the students I teach—post-generation X—and the X boomers are opposed to consumptive uses of wildlife and would prefer a gentle, appreciative, non-consumptive use of nature. That would include birdwatching, hiking, canoeing and shooting wildlife with a camera, not a gun.

We also have problems with subsection 14(2), which states, "Hunting is permitted in conservation reserves unless it is prohibited by regulation made under the Fish and Wildlife Conservation Act." The Peaceful Parks Coalition takes a strong position in defence of wildlife and believes that conservation reserves should also prohibit hunting. The areas are simply too small to allow such intensive uses of nature.

I wanted to say a few words about the background to this issue and remind many of you of the history of the

creation of parks and the uses made of parks. In 1983, Alan Pope, then the Tory natural resources minister, announced the creation of 155 parks. However, those parks were compromised because they allowed for all sorts of activities—all activities except logging. So these included mine exploration, hunting—

The Chair: Just to remind, you have about two minutes left.

Ms. Krajnc: Okay. The Liberals fortunately had a visionary cabinet minister, Gregory Sorbara, who suggested that the wilderness parks in fact not include these intensive uses. I would hope that there would be visionaries among the committee members here. I'll end at that.

Ms. Valastro: I just have some closing remarks, Mr. Bisson, if you want to wait.

Mr. Bisson: I'm trying to get the Chair's attention.

Ms. Valastro: Okay, but I'm just speaking, so—these are the closing remarks:

Today the committee will undoubtedly hear remarks regarding the traditional and heritage use of the natural environment and that access to protected areas should always be made available for these activities. We're here to say that unless tradition and heritage are closely associated with one's ancestral culture and society, language, food, clothing and shelter, and one's religion, such as First Nations, lending the definition of tradition and heritage to recreational activities, especially those that use motorized equipment, must then be applied to all recreational outdoor activities that have a long-standing history on the landscape. Traditional and heritage recreational activities cannot simply be applied to sport hunting and fishing alone, as is currently the case. It shows bias.

Interjection.

Ms. Valastro: Sorry, I'm speaking. I just wanted to finish off. I just have less than a minute here.

The Chair: You'll have to end on just that thought, please.

Ms. Valastro: I'm almost done here.

In this context, canoeing, hiking, berry-picking, photography, birdwatching and many other non-consumptive nature-related activities must also be described as traditional and of one's heritage. These activities have a long-standing and perhaps longer relationship with the outdoors than sport hunting and fishing.

The Chair: Thank you. That would conclude your time this morning. I want to thank you both for having come in to make your deputation. Unfortunately, there isn't time for questions on this one.

Mr. Bisson: I'd just move a motion that we extend it by five minutes just so we can do a couple of questions.

The Chair: They have had their time.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

The Chair: Our next deputant is the Ontario Federation of Anglers and Hunters, Mr. Terry Quinney. Welcome this morning. Please make yourself comfortable. You'll have 15 minutes to make your deputation here.

Please begin by stating your name for the purposes of Hansard. If there's any time remaining, it'll be divided among the parties for a question. Please proceed at your leisure.

Dr. Terry Quinney: Good morning, ladies and gentlemen. My name is Terry Quinney. I'm the provincial manager of fish and wildlife services for the Ontario Federation of Anglers and Hunters. On behalf of our more than 81,000 dues-paying members and over 600 community-based member clubs, we wish to thank you for this invitation to address your important deliberations. I can summarize the OFAH request of the Ontario government in one sentence: Fulfill your promise not to change the status quo.

Since this exercise began approximately 18 months ago, Minister Ramsay has repeatedly promised us and others that there would be no changes to the status quo regarding conservation reserves and provincial parks. This includes no expansion of the current network of parks in protected areas and no change to crown land use commitments made under Ontario's Living Legacy crown land use planning program. Ontario has a tremendous diversity of parks, protected areas and conservation reserves, and we respect the fact that the Ontario government wishes to update legislation that has been on the books for more than 50 years.

To fulfill that important promise of maintaining the status quo, only five straightforward changes to Bill 11 need to occur, and they are found in our two-page submission to you, which hopefully has been circulated. Attached to the two-page submission is additional important information that we trust you will find the time to read. But the five changes we are requesting are as follows, and again, they are described in the page titled "Bill 11," under (a), (b), (c), (d) and (e).

We'll start with (a), where our request is that three words be added to section 4(3) which would appear in a section 4(3)(c), adding the words "ecologically sustainable recreation." We provide our rationale for that request as described in the handout. Those three words appear very frequently in the act. They appear in the purpose of the act and in the objectives associated with both provincial parks and conservation reserves. They need to appear associated with the section devoted to ecological integrity.

1030

Ontario is, quite frankly, making a tremendous leap of faith by legislating a definition of "ecological integrity." Parks are certainly motherhood for, I think, all of us, but motherhood is not without its trials, tribulations and problems. Quite frankly, with reference to this new territory that is being explored with reference to legislating a definition of ecological integrity, it's very important to us that sustainable outdoor recreation activities be acknowledged as being completely compatible with ecological integrity. So that's request number one.

Request number two is that the first conservation reserve was established in Ontario not very long ago, in the early 1990s. That system of crown land has grown to

over 300 conservation reserves, over 1.6 million hectares of public crown land. This government, to its credit, has promised us that there will be maintenance and enhancement of existing access for ecologically sustainable outdoor recreation like fishing and hunting in all of those conservation reserves. So what needs to happen to deliver on that promise is that there be explicit wording in the act to acknowledge that. That explicit wording currently is not there. The act is either silent or there is ambiguous wording, so we're asking that that explicit recognition for maintenance enhancement of access for sustainable outdoor recreation in conservation reserves appear in the act.

Our third request is associated with methods of travel in wilderness class parks. Over the last several months, we've drawn to the government's attention our alarm associated with MNR newly establishing land use zones in conservation reserves. Land use zones have been used in the park system for decades. Therefore, to entrench zoning in provincial parks in the legislation is completely consistent with maintaining the status quo. Our item here is associated particularly with reference to conservation reserves because we've seen recent examples from the Ministry of Natural Resources, such as the La Cloche conservation reserve near Killarney and Espanola, where they have, in our opinion, arbitrarily recently imposed a very large wilderness land use zone in an existing conservation reserve, the effect or consequence of which is to evict traditional crown land users. Anglers and hunters, for example, who have used either ATVs or snowmobiles to get to their favourite fishing hole, so to speak, or their favourite hunting spot can no longer use those tools. A snowmobile and an ATV, for our constituency, are tools just like a fishing rod or a bow is.

We note that in Bill 11, the intention of the government is to use the words with reference to wilderness class parks that "visitors travel primarily by non-motorized means," as opposed to "visitors travel by non-mechanized means." We'd ask you in your deliberations over the next week or so to closely scrutinize those words. Why? Because there is a long-standing status quo, so to speak, and tradition now that has established itself over a long period of time in wilderness class parks. As a result of that—in other words, as a result of the realities over the last several decades—Bill 11 has chosen to use the words "visitors travel primarily by non-motorized means." Then, more recently, we've heard indications that the government may wish to use the words "visitors travel by non-mechanized means."

The point is, whatever words are chosen, the words are extremely important, and let us tell you why. If you're not extremely careful here, current methods of access such as wheelchairs, wheeled portage carts or even bicycles may be banned, and, quite frankly, that would be silly. Our parks and conservation reserves should be accessible to all Ontarians, young and old, infirm and handicapped. It's not at all clear how, without some close scrutiny and changes, the existing methods of

access in wilderness class parks can be maintained. So we'd ask you to please closely scrutinize that.

To its credit, the government has informed us that they will amend section 14. That is item D on the handout in front of you. We wish to congratulate the government and thank the government for that amendment.

Finally, our item E, at the very end of the act, subsections 55(1) and (2): Subsection 55(1) is preceded by the heading "Subsequent amendments." It's my understanding that after Bill 11, in whatever form, receives successful third reading and then is proclaimed, it's the government's intention, at future dates yet to be named, that additional changes or amendments will occur. For example, subsection 55(1) creates an entirely new class of provincial park called an aquatic class of park. Quite frankly, that would be contrary to Minister Ramsay's promise to us that through Bill 11 the park system will not be expanded. So we are requesting that subsection 55(1) be deleted and, as a result, that subsection 55(2) also be deleted.

The Chair: Just to advise you, you have about two and a half minutes left.

Dr. Quinney: On October 13 of last fall, Minister Ramsay again repeated to the Ontario Federation of Anglers and Hunters, but also to the Ontario Forest Industries Association, the Ontario Waterpower Association, the Ontario Mining Association, the Ontario Fur Managers Federation and others, that Bill 11 would not change the status quo. Please help us in ensuring that Minister Ramsay, on behalf of the government of Ontario, keeps his promises. Thank you very much.

The Chair: Thank you. We probably have time for one brief question, and that would be Mr. Miller's.

Mr. Norm Miller (Parry Sound-Muskoka): Thank you very much for your presentation this morning. Just a clarification on your first couple of points: I note that you want a change to subsection 4(3). Section 4 is "Definitions and interpretation." You'd like to see the words "ecologically sustainable recreation" added to that section. Is that correct?

Dr. Quinney: That's correct.

Mr. Miller: On your second point, you're saying the status quo in terms of conservation reserves, so clarification in terms of access specifically to conservation reserves. Can you expand on that and how you see that it needs to be done in this bill?

The Chair: Briefly, please.

Dr. Quinney: If memory serves me, in the bill, access is addressed largely in section 19. But when you go to section 19, it is silent with reference to maintaining and enhancing in conservation reserves access for the purposes of sustainable outdoor recreation activities like fishing and hunting. We need that to be made explicit somewhere in section 19.

The Chair: Thank you for coming in today.

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ONTARIO FOREST INDUSTRIES ASSOCIATION

The Chair: Our next deputation will be the Ontario Forest Industries Association, Scott Jackson. Mr. Jackson, welcome this morning. You have 15 minutes to make your deputation. If you leave any time remaining, it will be divided among the parties for questions. Please begin by stating your name for Hansard and then proceed.

Mr. Scott Jackson: My name is Scott Jackson. I am the manager of forest policy with the Ontario Forest Industries Association. It is a great pleasure to be able to present our concerns and comments to you this morning. Thank you very much for the opportunity. As a brief introduction to our association, we are one of two provincial trade associations for the forest industry in Ontario. We represent approximately 80% of the land base that is currently managed for industrial forest operations, and about 80% of the crown timber—that's the provincially owned timber—that is harvested for production in this province.

At the risk of sounding repetitive, I would like to re-emphasize some of the points made by Dr. Terry Quinney, as they deal with the minister's commitments that were made to a broader coalition of resource users back in January 2005 and then again in October. I would like to emphasize that the minister did commit to our parties that this legislation was about maintaining the status quo. It was intended to roll existing legislation and existing policies into a single umbrella legislation, and perhaps most important to our organization, the commitment was that this is about how parks and protected areas will be managed. This is not about the expansion of parks. This is not about activities that exist outside of parks. This is legislation to determine the management of existing parks and protected areas.

That being said, to clarify, the Ontario Forest Industries Association does support the review and update of the provincial legislation as it deals with parks and protected areas. It is an outdated act. Much has happened, and we do support the need to update that.

Following up on the minister's commitment to embed existing legislation and policy into this single legislation, we do think that there are very many positives, and we would just like to emphasize those very quickly. One is to increase the requirement for management planning within parks and protected areas. We think that's a very responsible approach. If you're going to protect parks and protected areas, you should ensure that they're managed consistently with the intent for which they were developed in the first place. Some could argue that the required management—there is some optional management within the legislation—does not go far enough. When you compare that to the management requirements that exist on the outstanding land base, I think it illustrates the example quite clearly.

We accept the broad prohibitions to commercial logging in parks and protected areas. We do, however, support the continued provision for exceptions where silvicultural activities, such as the felling of trees, do support forest research or forest management in support of park conservation reserve objectives. We do support the allowance for governments to sell any resulting timber from such activities. Just to be clear, this is not about managing parks for timber extraction; this is about managing parks according to the ecological integrity and the objectives of managing those parks. Should silviculture be a by-product of that, then it should be allowed.

Perhaps our greatest support is around the continuation of the logging and associated activities in Algonquin Park. Again, to emphasize, this is directly supported by the minister's commitment of status quo and rolling existing policies into one legislation.

I won't go through all of these, but in addition, we do support the continuation for existing aggregate pits and roads that are currently in place within parks and protected areas, and the allowance for additional roads or the expansion of existing roads, of course with the minister's approval. That's not a blanket approval; it will be addressed on an individual basis.

That being said, we do have two very specific concerns which I would like to bring forward to the committee today. They both deal with subsection 10(2), and they both deal with the requirements for the minister in his five-year reporting. The first one is for the minister to report on threats to ecological integrity and ecological health of parks and conservation reserves. In our minds, this is a very open and vague statement. We have registered this concern with the minister's office and with the park staff, that this cannot proceed as currently written. It is entirely too vague. The OFIA believes that the proposed legislation should be very specific, as per the minister's commitment to the management of provincial parks and conservation reserves; therefore, any reporting requirements should be specific to how the park is managed and what goes on inside that park.

Specifically, we believe that that section should be amended to exclude forestry. Forest operations in Ontario are governed by two ministries, the Ministry of the Environment through the class Environmental Assessment Act and the Ministry of Natural Resources through the Crown Forest Sustainability Act. The Crown Forest Sustainability Act requires assurance of long-term forest health as its underlying premise.

Just to repeat—section 10(2), reporting on the threats to ecological integrity and ecological health: forestry, activities that exist outside of parks should be excluded. In discussion with staff of Ontario Parks, we do recognize that there was some sensitivity around external phenomena, such as acid rain, global warming etc. That is of less concern to us if Ontario Parks wants to report on those. But activities that currently exist on the land base that are governed by the provincial government and which have environmental conservation as their under-

lying premise—there is no need to include these as potential threats to ecological integrity.

Our second concern deals with the minister's requirement to report on the degree of ecological representation of parks and protected areas—again, section 10(2). We are in no way requesting or implying that it is not the government's role and responsibility to look at the representation of parks and protected areas in the province; we just don't think that it should be under the sole jurisdiction of this legislation. It is a land use planning initiative, and it needs to consider other existing policies and legislation on the land base. As such, we think that the minister's requirement to report on the ecological representation of parks and protected areas is outside the jurisdiction of this legislation and should be removed.

In that I think I'm under time, I'd be happy to entertain any questions.

The Chair: Thank you very much. We should have time for a little over two minutes for each caucus, beginning with Mr. Bisson.

Mr. Bisson: I'm just looking at the legislation in regard to the two last points you made in regard to section 10(2). I guess I'm having a bit of a problem trying to make the leap to where you're trying to go with this, because, as I read it, it basically only deals with parks. Are you saying that you read it that those principles can find their way into crown forests?

Mr. Jackson: What we're saying is the requirement to report is vague, and we would very much like it to read explicitly according to your interpretation and say that the reporting should be specific to what goes on within parks and protected areas.

Mr. Bisson: So it's your view that the way it's written now, it could be interpreted as meaning timber that's forested or harvested under the CFSA?

Mr. Jackson: That's one example, yes.

Mr. Bisson: That's all I've got.

The Chair: Okay. Mr. Orazietti?

Mr. David Orazietti (Sault Ste. Marie): Thank you for your presentation. Can you elaborate a little bit on your concern with section 10(2) in terms of threats to ecological integrity? What this bill is attempting to do is find a balance between protection of our parks and conservation areas and those activities that currently take place or organizations like yourselves and the previous presenter. From the perspective of the government, we're concerned about ongoing issues that may arise in terms of our ability to protect conservation areas, parks, wilderness areas and the like. We think that there is some merit in having this mechanism in here to be able to report back and take further steps, if need be. I can't see that being a significant issue with the forestry sector, provided your concerns are taken into consideration. Can you be a bit more specific in terms of how you think that might apply?

Mr. Jackson: Absolutely. I am pleased to hear that you do want to take a balanced approach. That has generally been our interpretation of this legislation as well. That being said, if you're trying to strike a balance

between what goes on in parks and what goes on outside of parks, as far as forestry is concerned, the pieces are already in place to govern what goes on outside of parks. You've already established that side of the coin through the timber Environmental Assessment Act, which is governed by the Ministry of Environment, which was reapproved, reviewed and revised back in 2003, and the Ministry of Natural Resources own act, the Crown Forest Sustainability Act, which does require the protection of ecological forest health as its underlying premise. So you already have that piece in place. If you're trying to strike the balance, then it's now about how parks protected areas are managed internally. That is the balance.

1050

The Chair: Thank you. Mr. Miller.

Mr. Miller: Just on your point to do with forestry, you spoke in favour of allowing logging to continue in Algonquin Park. What I'm wondering about is—this bill states that its main priority is ecological integrity—do you think forestry is something that can occur in a park where the stated first priority of this bill is ecological integrity? Is forestry compatible with ecological integrity? I guess that's my question.

Mr. Jackson: Forestry is definitely compatible with ecological integrity. Again, it's the fundamental premise of the Crown Forest Sustainability Act. With regard to Algonquin Park specifically, in addition to the minister's commitment that this would be status quo, Algonquin Park is subject to independent forest audits under the Crown Forest Sustainability Act. If you look at those independent forest audits, you'll find that it's a glowing review for the operations within Algonquin Park. It's recognized that Algonquin Park is probably under more scrutiny than any other management unit in the province. And those independent forest audits have shown that the operations at Algonquin are above and beyond the government requirements. So yes, we absolutely do believe that forestry can be compatible, and is compatible by its definition under the Crown Forest Sustainability Act, with ecological and forest health.

Mr. Bisson: Very quickly, just as a follow-up to my first question. In subsection 10(2), at the end it talks about "provincial parks and conservation reserves, threats to ecological integrity and ecological health and socio-economic benefits." Is there something in there that leads you to believe that extends it beyond parks? Is it that?

Mr. Jackson: No. It's the fact that it is a very open-ended statement. I don't think it's very difficult to say that we will be looking at threats to ecological health as per the management of parks and conservation—

Mr. Bisson: But you agree that there has to be some eye to socio-economic benefits as well, though.

Mr. Jackson: Some eye in terms of the management of parks and protected areas?

Mr. Bisson: Do you have any problems with that principle? That's what I'm asking.

Mr. Jackson: No.

The Chair: Thank you very much for having come in this morning and for taking the time to present to us.

SIERRA LEGAL DEFENCE FUND

The Chair: The Sierra Legal Defence Fund, Anastasia Lintner, please come forward. I'd like to welcome you this morning. You have 15 minutes for your deputation before the committee. If there's any time remaining, we'll divide it among the parties for questions. Please introduce yourself for the purposes of Hansard and then begin.

Dr. Anastasia Lintner: Mr. Chair, members of the committee, my name is Anastasia Lintner. I'm a lawyer with the Sierra Legal Defence Fund and an adjunct professor of economics at the University of Guelph. I am here today on behalf of the Sierra Legal Defence Fund. We appreciate the opportunity to appear before you today and make submissions regarding Bill 11.

Sierra Legal is Canada's largest non-profit environmental law organization and is dedicated to defending Canadians' right to a healthy and natural environment. Sierra Legal encourages you to seize this opportunity to become a leader and set a new standard for protected areas legislation. In 1978, Ontario moved to the forefront of protected areas management with the provincial parks policy statement and the so-called blue book, the provincial parks planning and management policy. In 1978, Ontario was progressive in setting the standard which other jurisdictions modelled. Now is the time to re-become the leader.

The rationale for protected areas has evolved as our population and economy have grown: from its origins in enabling urban parks in 1883, to setting aside a specific individual forest reserve for research and retreat for artists in the Algonquin National Park Act in 1893, moving on to setting aside additional crown lands in the early 1900s, and then, with increased financial wealth and outdoor recreation demands, we moved to a system of parks in 1954.

Now conservation science informs us that natural areas provide ecosystem services that are of value in and of themselves: biodiversity, mitigating climate change, and as ecological benchmarks. Natural areas are becoming globally rare, and we should treat them with great care, leaving them unimpaired for future generations.

Protected natural areas, according to our Environmental Commissioner of Ontario in his 2003-04 report, "should be havens for wild species." According to the recommendations of the parks board in 2005 regarding the review of our protected areas legislation, they "are havens for biodiversity."

Protected areas are part of Ontario's natural capital, and when discussing issues about the uses of our natural capital, the issue of protection is often improperly framed as an attack on the merits of other sustainable uses, such as mining, logging and other development. Sierra Legal doesn't question the merits of sustainable use of our natural capital. We are questioning the appropriateness of such industrial uses within protected areas, and sus-

tainable or wise use of natural capital does not equate with ecological integrity.

If protected areas are to be a haven of our vast biodiversity and wildlife, they should be protected, prohibiting industrial activities, and it is worth protecting some of our natural capital. The economic value of natural capital extraction for Canada's boreal forests was recently determined to be \$37.8 billion in 2002 dollars. That's the extraction part of our natural capital, using the environment for commercial purposes.

In the same report, the economic value of the boreal ecosystem services was determined to be \$93.2 billion in 2002 dollars. That's more than two times the economic value of the industrial uses. It's worth protecting some of our natural capital permanently, and here's the opportunity with Bill 11.

Sierra Legal Defence Fund, in collaboration with CPAWS Wildlands League, have provided you, or may be providing you—they're coming up next—with a document that provides an analysis of second reading of Bill 11. In this document, we provide the rationale for amendments that will make Bill 11 the new standard for protected areas. The key components that must remain intact in Bill 11 are:

First, permanent protection and ecological integrity as an overriding priority in a protected area system and management. In our document, we discuss the rationale behind permanent protection and ecological integrity in the sections that we've labelled A, E and F.

The second key component is that the rights of aboriginal peoples must be properly accommodated. In our analysis, we've discussed this in section B.

Third, industrial activities must be banned from protected areas, and that includes the phase-out of logging from Algonquin Park. We've addressed this in our submission in part C.

Finally, roads and motorized access must be severely restricted within our protected area system. We discuss the concept of restricting road access in our part A discussion of ecological integrity, and that's specifically at page 2 of our submission, and we discuss motorized access in section D.

I'll leave you with the written analysis as you are making your deliberations on Bill 11, and I want to point out that Sierra Legal believes that the single biggest strength of Bill 11 now is that the purpose and objectives are clearly targeted toward permanent protection and maintaining ecological integrity as a priority.

We feel that the single biggest weakness of Bill 11, as it is now, is that that overarching purpose is weakened through multiple exemptions and permissions for exceptions to the rule. Sierra Legal encourages you again to seize this opportunity to reassert Ontario's position as a leader and set a new standard for protected areas legislation.

Thank you. I will answer any questions you have.

1100

The Chair: Thank you very much. We should have enough time for one question from each caucus, beginning with Mr. Orazietti.

Mr. Orazietti: I don't have any questions. Thank you very much for your presentation this morning.

Mr. Miller: In this bill, ecological integrity is the main focus in terms of protecting parks and conservation reserves. What's your definition of "ecological integrity"?

Dr. Lintner: We haven't sat down and written out a definition of "ecological integrity." As with any sort of standard that involves how the science will resolve these issues, we expect that it will evolve. We like the way the parks board recommendations set out some of the criteria that might be used, but enable an ability to be flexible and sort out what this is going to mean and how it's going to be applied in policy and regulation. So it's a vision of providing areas where we restrict use in particular ways in order to allow the functioning of the natural system and hopefully restore some of our natural systems that may have been degraded.

Mr. Bisson: Two quick questions: One would be on a non-derogation clause vis-à-vis First Nations' rights. Would you support such an amendment?

Dr. Lintner: Yes.

Mr. Bisson: I think the second one was in section 27. Basically, what the legislation says at one point is that once the legislation is created, the minister must appoint a committee; in five years, they have to review current policies, and after five years, that becomes the basis of what this bill will be all about. Except that at the end it says, "If you don't finish the job, the current policy then becomes whatever it's going to be in the end." Do you think that's wise? In other words, you can do nothing and be stuck with what you've got.

Dr. Lintner: Sierra Legal would be in support of a more regular review, making sure that updates, given the current information about conservation science, are included rather than leaving it to, "If it doesn't get updated, then we'll just revert back."

The Chair: Thank you for coming in this morning.

CPAWS WILDLANDS LEAGUE

The Chair: CPAWS Wildlands League, please—Evan Ferrari and Janet Sumner. Please be seated and make yourselves comfortable. Welcome, this morning. You'll have 15 minutes to make your deputation to us. If you don't use all of your time, it will be divided among the parties for questions. Please introduce yourself for the purposes of Hansard and then begin.

Ms. Janet Sumner: Mr. Chair and members of the committee, I appreciate the opportunity to comment on Bill 11. My name is Janet Sumner. I'm the executive director for the Wildlands League. With me is Evan Ferrari, director of the parks and protected areas program. Rather than go through the detailed clause-by-clause analysis that we've done with Sierra Legal

Defence Fund and that we've brought here today for you, I would like to paint a picture.

I have a vision. I dream of a province where the children of my family will inherit the natural beauty that we all enjoy today. In my dream, I see caribou roaming as far south as Algonquin, like they once did. I see monarch butterflies, trilliums, bald eagles, polar bears, walrus, peregrine falcons, salmon and the wolverine once again abundant in Ontario. I dream of this unspoiled legacy of wilderness and all that it embodies: the biological diversity, the opportunity for the renewal of spirit in crystal clean lakes, pristine forests, rushing rivers, sage-sweet grasslands and, above all, healthy ecosystems.

Over 90% of our province is not protected from industrial development. So how is it possible to believe in this dream for the children in my family? How can we make sure all our children and their children can see polar bears, caribou and eagles? The only way is to protect nature, or at least some places for nature. We need parks so that nature has somewhere to live, and we have to mean it when we say that it is protected.

Ecosystems are not just where critters live. They provide valuable life-sustaining functions for all life on this planet. From the Carolinian forests deep in southwestern Ontario, through the Great Lakes-St. Lawrence forests curling around the Great Lakes, into the vast boreal forest of Jack pine stretching through much of the rest of Ontario, up into the taiga at the northern edge of this province and even into the adjacent marine ecosystems, Ontario is a beautiful place, a marvel and an envy of the world. These ecosystems filter our water, purify the air we breathe and increasingly regulate the climate and effects of climate change. If we destroy these ecosystems that species depend on, we will have destroyed the systems that sustain us.

We are the destination of choice for Europeans wishing to reconnect with nature, Americans wishing to see real wilderness flock to Algonquin, and the people of Ontario enjoy a pride of place that few others do in the world. But never more than now do we need to take a stand for wilderness. The threat has never been greater. In Ontario, we have the highest number of endangered species in the country, we are slowly driving caribou to extinction, and we offer no protection to parks from what happens on their doorstep.

So what can we do? How can we realize this dream, not just for my children and the children in my family but for all of us, for all the children and their children too? The answer: We can decide that parks must truly be protected. So what does that look like? Well, this legislation is a start, and it's a good start. Let's get it passed. Right now, parks are compromised every day. The purpose of a park is to protect nature, but without strong legislation there is no protection. What we have right now leaves parks vulnerable on so many fronts.

Second, don't weaken even one clause, one comma, one word of Bill 11. With less than 10% of our land in parks and over 90% open to industrial development, we have to make protection mean something. Don't let parks

die from 100 paper cuts. I urge you to keep Bill 11 as strong as it is today. In fact, I encourage you to strengthen it. There are three ways you can do that and make this not only the best parks act in the country, but the legislation that is actually ecologically required to keep wolverine, eagles, caribou, monarchs and polar bears thriving in Ontario.

The greatest weakness I see in this legislation is that it doesn't protect any park from what happens outside the park, and unfortunately, that's the greatest threat to a park. Yes, you can see boldly set out in the purpose and objectives of the act the intention to protect the ecological integrity, but the act fails to do so from its greatest threat. We applaud this government for taking the bold move to protect ecological integrity, but for goodness' sake, please, please, be true to the spirit of that intention and protect the park from its greatest threat: the activities going on outside of it. We call this a good neighbour clause. Make sure the activities going on outside the park don't destroy the ecological integrity inside the park. Those responsible need to be held accountable.

And, of course, you just can't protect nature in a place where you have logging, mining or hydroelectric development. The footprint is just too devastating. The other 90% of our land is open for industrial development. We only want to keep what we have in parks truly protected. So please keep mining, logging and hydro development for commercial purposes out of parks where it belongs, and that includes Algonquin. We don't need to log in Algonquin. We need to look at taking the pressure off the Algonquin ecosystem and take logging outside the park. We know it's possible. We've looked at the numbers, and there is enough wood that we could move logging outside and not lose a job. We'd have to do it over a phase-out period, but we know we can do it. So why are we still carving up Algonquin with forestry and the 8,000 kilometres of roads that are needed to do that forestry? Why, when we could just take it out and keep the park a park?

Finally, I encourage you to keep park boundaries intact. Right now, the legislation allows what seem like small changes to boundaries, but this is the death of a thousand paper cuts. If we allow even small changes, we could lose the essential functions of that particular park's ecosystem.

I'll leave you with this image: Imagine that it's long before my family or, more importantly, long before any European settlement came to this province. Imagine, if you will, a squirrel in a tree just outside this committee room at Queen's Park. If that squirrel was so inclined, it could travel in the treetops from Queens Park all the way to Windsor, Ontario.

Now, imagine today you're driving in a car west to Windsor. It's a very different landscape. What's left of that primordial forest are tiny little scraps of land that attempt to cling on to some form of ecological health, places like Trillium Woods Provincial Park south of Woodstock. At 10 hectares, it's no bigger than the piece of land we're sitting on surrounding Queen's Park Circle.

The trillium protected in this park once covered huge expanses of the province. This park is a mere representation of what once was. In southwestern Ontario, less than a fraction of 1% of the land has been protected. Please make a dream come true and protect the places nature has left. Protect our parks.

I leave you with the detailed analysis of second reading of Bill 11 that we've done in collaboration with Sierra Legal Defence Fund. I encourage you to read it as you make deliberations on this bill. Thank you.

1110

The Chair: Thank you very much. We should have about a minute for each party to ask a question.

Mr. Miller: I was waiting for Evan to start up with his presentation, but thank you very much. You've outlined your dream very well. I guess my question is on the parks and recognizing that there are conservation reserves and six classes of parks. What access for people do you see in that dream, looking forward?

Mr. Evan Ferrari: Access for people would be unrestricted in any of those parks. If people want to go in and snowshoe or canoe or hike, there's unrestricted access in any of those parks. We see that regardless of where things go from a motorized access perspective, there's always the ability for people to do that.

From the standpoint of people who have challenges in getting around, there are organizations that will actually take quadriplegics on canoe trips, so there are ways of bringing people in, to have access without motorized or mechanized means. That should continue to be completely unrestricted from a non-motorized perspective.

Mr. Miller: There's been some discussion about mechanized versus motorized. I know the OFAH raised concerns that it would mean someone with a wheelchair wouldn't be able to use a park. I suppose it means that a mountain bikes as well would be excluded if it was strictly mechanized versus—

Mr. Ferrari: From that perspective, if we want to make exceptions for wheelchairs, they shouldn't become the rule, number one. Number two, there are ways of doing it. I've seen one example of the mayor of Vancouver, who is a quadriplegic and invented a one-wheeled wheelchair that strapped to his buddies that he used to trail run with, and they literally climbed mountains in this thing. So clearly there are ways of getting someone wherever you want to go without motorized access.

Mr. Bisson: You touched on a couple of things here. I didn't hear you say it, but you're in support of a non-derogation clause, I do know, so I appreciate that. The good neighbour—what did you call it?

Ms. Sumner: A good neighbour clause.

Mr. Bisson: Have you had any discussions with anybody else? What kind of feedback are you getting from others on that concept?

Mr. Ferrari: Not only have we had discussions with others, but there is a precedent for it in the provincial policy statement of the Ontario Planning Act. I believe it's section 2.1 of the provincial policy statement that

essentially states that within natural areas, in this case southern Ontario, nothing that happens outside of those natural areas is to have a negative impact inside. More importantly, if you and I are neighbours and I drop battery acid on my property and it pours onto your property, should I be liable for it? Should I be responsible for it? We see the good neighbour clause, and the greater park ecosystem is the same thing, that if someone does something outside the park that has a negative impact inside, they should be responsible for it.

There seems to be a fair bit of support for that concept. It doesn't put any kind of a restriction on what happens outside a park; it just says that if you've caused some damage inside as a result of something that you've done outside, then you need to be responsible.

The Chair: Mr. Oraziotti?

Mr. Oraziotti: Mr. Chair, Mr. Sergio has a question.

Mr. Mario Sergio (York West): It's not necessarily a question, but just to welcome Janet Sumner and Evan Ferrari. Evan Ferrari's family are long-standing members of my riding. I'd like to welcome them here, and especially Evan—I spoke to him prior to the meeting—who has shown such a desire to come down and make representation at our committee.

If I can sum up from the presentation, Ms. Sumner, you seem to be eager to see this Bill 11 go through. Am I right?

Ms. Sumner: Yes.

Mr. Sergio: Having said that, I want to thank you for your presentation today. Keep up the good work.

The Chair: That concludes the time we have for this deputation. I'll join by adding my thanks to you.

WILDERNESS CANOE ASSOCIATION

The Chair: Our next deputation is from Wilderness Canoe Association, Mr. George Drought. Mr. Drought, make yourself comfortable. Welcome this morning. You will—

Mr. George Drought: Thank you, Mr. Chairman and members of this committee, ladies and gentlemen. My name is George Drought, and I'm chairman of the Wilderness Canoe Association. I'm here, really, on behalf of Erhard Kraus, who is our conservation chairman. Unfortunately, he is out of the country at the moment so I am pinch-hitting for him. However, I probably have a unique position in this hall today in that I doubt very many people have seen as much of this country as I have from the point of view of wilderness travel.

I am a canoeist who has travelled over 50 rivers in Canada, probably 30 of them in this province alone. I am entirely familiar with the damage done by mining, timber and hunters and anglers because I've seen it on the ground. Twenty years ago I attended a hearing like this in Timmins for the creation of the Missinaibi wild water reserve. I've been down the Missinaibi something like four times. I have seen the timber extraction right up to the shoreline on the Missinaibi wild water reserve. They

claim they have to do that because, if they don't do it, they will get blowdown. That's baloney, quite frankly.

I'm also probably very privileged in that I was contracted by the Friends of Algonquin Park to write the river guide for the Petawawa River, which was published some 15 years ago. Subsequent to that, I have made a film on the Petawawa River. To be able to do this, the Friends of Algonquin Park gave me access to the road system in the park so that I could get into the various places to do the filming and write the river guide. You would be astounded at the number of roads travelling through Algonquin Park that you do not see from the rivers or from Highway 60. It is absolutely staggering, the damage done by those roads. They extract lumber from probably about 80% of the park.

Not only is that damage caused, but when I was doing the research for the river guide, because the roads were there—and they were gated roads to stop poachers, hunters and so on getting into the park—I saw evidence of and was told about the facts by Dan Strickland, who at that time worked for the park as their senior naturalist, of dynamited gates, so that people could get in and have access to the park. The more roads you create, the more ecological integrity is damaged, because it encourages other people to use them.

I'm not going to be lengthy in this talk. I know I have 15 minutes, but I would sooner take questions from this committee or from anybody here. I think it's very important to realize that I question how many people have had as much access on the ground to wilderness travel as I have. I will entertain any questions from you now.

The Chair: Thank you very much. We'll begin with Mr. Orazietti—I'm sorry. Mr. Bisson is back, so actually the question rotation—

Interjection.

The Chair: All right, we'll start with Mr. Orazietti. We've got a little over three minutes for each party. Go ahead.

Mr. Orazietti: Thank you for your presentation and for being here today. The government's position with respect to this bill is to try to find a balance and obviously update the Provincial Parks Act, which hasn't been done since 1954, so we have some significant work to do here in that regard.

You referenced your travels around the province and throughout the country and on numerous rivers as someone who is an avid canoeist. Do you not see in this bill ways in which the province can ensure ecological integrity of our parks, conservation areas and wilderness areas, and make that compatible with other activities that are important to Ontario's economy and to other individual and organizational interests in this province?

1120

Mr. Drought: I do see ways. There's the very fact that in excess of 90% of all the crown land in this province is not a park or a conservation area. That being said, I heard the anglers and hunters say they had 81,000 members; good. They've got 91% of the crown land in this province to hunt and fish in. Why do they need

motorized access to our parks and conservation areas? What's wrong with their two legs, or a canoe over their head? Why can they not shoot within the parks with a camera, not a gun? They have 90% of the rest of the province to do that in.

Yes, I do see the legislation guiding us on a path that can, shall we say, protect the other people of this province who are not in favour of hunting and fishing, who want a mere 9% to 9.5% of the land set aside for the environment, for ecological reasons, and for their own presence of mind, that they can go and sit quietly without the noise of an ATV roaring by. Yes, I think we need that protection.

Mr. Miller: Thank you for your presentation. Let me start off by saying that I'm very envious of you, having paddled those 50 rivers. The last few years—

Mr. Drought: It's kept me broke; let me put it that way.

Mr. Miller: —I've enjoyed paddling a few rivers—not 50, but a few of them anyways, so I'm certainly envious.

Part of Bill 11 allows for hydroelectric generation for off-grid communities. I'm sure in most cases—

Mr. Drought: I would certainly like to speak to that.

Mr. Miller: I thought you might like to speak to that. That's why I'm asking a question about it. I note that the off-grid communities that have been noted as potential that are near a park—in the information I was given, there are about five on the Missinaibi River, for example, and the biggest one is on the Winisk River. I assume that this would affect mainly First Nations communities, and we will be hearing from some First Nations communities, I hope, to hear their perspective on this as well. Maybe you could just talk about that, whether it's compatible, and how you see it.

Mr. Drought: Yes. Hydro power for small native communities or any small isolated community that is not on the grid system is very feasible without destroying the environment. However, it is somewhat dependent upon water levels at the time. You cannot do what has been done on the Mattagami River at the Kipling dam site, which has a series of four dams holding back water for release very 12 hours, in conjunction with the Abitibi River. I don't know if any of you are familiar with that practice. The environmental damage done on the Mattagami River that I saw in 1974 was absolutely horrendous. When you arrive at the Kipling dam site, there's a large lake up above it. Through the small community of Fraserdale—big four-wheeled vehicles can get in there. I saw fish camps in an absolutely disgusting state, because they had motorized access to this area.

That provides to the grid, but in spite of that, the damage to the Kipling dam itself—because they did not prepare the land properly, the trees uprooted. They came out of the ground when the lake was flooded, and they got into the turbines at the Kipling dam, a horrendous cost to this province, both environmental and fiscal.

Mr. Miller: You were starting to say there are ways to do it. How would you do it?

Mr. Drought: We have a large system right here in southern Ontario on the Niagara River. They have not destroyed Niagara Falls by putting a dam down below them. Instead, they divert some of the water through turbines underground. It can be done in a small degree in any of these small rivers where you get an isolated community that's not on the grid.

The Chair: Mr. Bisson.

Mr. Bisson: I'd only say it would be fairly difficult to do in some cases because you don't have the landfall, the drop in elevation.

Mr. Drought: I did qualify that by saying—well, you do have a drop in elevation on most of these rivers. There are falls somewhere, as a rule.

Mr. Bisson: I look at the Winisk River—I was there just two weeks ago—and the first falls are quite a way away from the community. But I hear what you're saying, for argument's sake. I didn't hear your presentation. I just heard your comments afterward. Thank you for your presentation.

Mr. Drought: It was not read.

Mr. Bisson: I was looking for the writing. I didn't see anything.

The Chair: Mr. Drought, thank you very much for taking the time to come in this morning. Thank you for your very enlightened comments.

Mr. Drought: You're welcome. Thank you for having me here.

DOKIS FIRST NATION

The Chair: Our next presentation will be from the Dokis First Nation. They'll be videoconferencing with us via North Bay. Good morning. Can you hear me?

Mr. Jack Restoule: Yes, I can.

The Chair: Okay. My name is Bob Delaney. I'm the Chair of the standing committee on the Legislative Assembly. Am I speaking to Mr. Jack Restoule?

Mr. Restoule: That's right.

The Chair: Mr. Restoule, you have before you the members of the standing committee on the Legislative Assembly. They'll be listening to your deputation this morning. You have 15 minutes. If you leave any time remaining, I'll divide it among the parties for questions. Please introduce yourself clearly for the purposes of Hansard and then proceed.

Mr. Restoule: All right. My name is Yukon Jack Restoule, and I'm the band economic development officer for the Dokis First Nation. I want to thank the committee for allowing me the time to be able to address you guys and ladies on the effects Bill 11 will have on our community. I'll begin by giving an introduction and a brief history of our hydro project and the effects that Bill 11 will have on our proposal development.

Dokis First Nation has been investigating the possibility of constructing a run-of-river hydro project on the French River watershed at a dam that is presently owned and operated by Public Works and Government Services Canada in maintaining the navigable water levels of the

Lake Nipissing and French River watershed. The Dokis First Nation has the indication that the viability of a hydroelectric generation station is looking positive for our First Nation in today's market realities. We are intending to address the implications that Bill 11 creates respecting our economic proposal to the regulatory bodies that handle hydro power.

The Dokis First Nation has been involved in ongoing studies to identify the economic feasibility of constructing a run-of-river small hydro plant on the French River at Dokis. Extensive studies have been conducted historically, and more so during the last 15 years, on the feasibility of developing a small hydro at the Big Chaudière dam site. The Big Chaudière is the site we are addressing in this presentation to the committee on the amendments to Bill 11, as this is the site that is being affected by the passing of said bill. This presentation will form the basis for the required amendment to Bill 11 so as not to preclude the possibility of developing hydro at Big Chaudière for the Dokis First Nation.

The most recent study was conducted by the IBI Group, formerly known as Cumming Cockburn Ltd., out of Richmond Hill, and was commissioned by Public Works and Government Services Canada and is defined to be an examination of the options available to the Dokis First Nation and Public Works and Government Services Canada respecting hydro development at both sites in consideration. Additionally, the study was commissioned because Big Chaudière needs to be replaced due to its deteriorated state and is now reaching the end of its useful life.

The study was commissioned by Public Works and Government Services Canada so as to not preclude the development of hydro generation by the Dokis First Nation. The time has come to take this development to the next level, respecting the replacement of Big Chaudière and the location of a run-of-river small hydro plant for the Dokis First Nation.

The electricity market has now opened, and Hydro One is looking for developers to supply the needed power to fulfill the demand on the already strained Hydro One system. The Dokis First Nation wants to be one of those electricity suppliers to Hydro One—or any other market operator, for that matter—to begin to generate revenue and clean hydro power from this site.

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Big Chaudière is approaching 90 years old and has been assessed by Trow Consulting Engineers out of Sudbury as nearing the end of its useful life, and therefore Public Works and Government Services Canada wishes to determine cost options for its eventual replacement. The Dokis First Nation wishes to construct a hydroelectric generator at Big Chaudière and wishes to examine the options it has at its disposal. The feasibility of constructing a generator at this site shall be determined by examining the electricity market reflected using the latest data from the electricity market as it presently stands as opposed to those of a number of years ago. Our

proposal looked feasible years ago and I think it still will look feasible now, seeing that the climate has changed.

The Dokis First Nation is presently in the process of re-crunching the financial feasibility numbers of the small hydro plant construction. The scope of the project will also encompass which approval processes we are looking at respecting this development, which includes environmental assessments from both the provincial and federal levels of government. The project study shall outline the necessary approvals for the licence to operate the hydro plant, permits to take water, approvals to connect to the distribution system, safety and regulatory measures, reliability measures for incentives for production in peak demand hours, will examine the provincial park issue respecting First Nation riparian hydraulic economic development, and will examine the regulatory issues surrounding the Canadian heritage river system, the provincial park system and any necessary Ministry of Natural Resources approvals that we require for our project.

Now, the present situation: The Dokis First Nation was formed by virtue of the Indian Act of 1850 and has been in existence since that date. Now fast-forward to the 1980s. This era sees the formation of the French River Provincial Park, and its roots are firmly planted by the Ontario government and the Ministry of Natural Resources. That system formed the French River Provincial Park and there were no negotiations that were set in place respecting the area First Nations' input into those plans at that time.

Another call was sent out last year and our First Nation leadership either ignored the call to participate or felt it wasn't necessary to the ongoing development of our First Nation economy. Now the time has come for the Dokis First Nation to voice our concerns and opinions on the ongoing development of the French River Provincial Park. The situation raises certain issues that are omnipresent in our everyday development of the resources we have at our disposal, like this opportunity for hydro power and revenue generation. The formation of the French River Provincial Park causes the Dokis First Nation a considerable amount of distress, as the park surrounds our First Nation and therefore has implied that there is no hydro development that will happen from within the boundaries of said park.

I want to refer to a map really quickly, so hopefully I'll do this properly. As you can see on this map, the Dokis First Nation is in the grey area and the provincial park is in the green. In essence, it surrounds our First Nation. That is why the Dokis First Nation is seeking this amendment to Bill 11, the provincial park act, because the park, in essence, surrounds our First Nation. As you can see by the map I just made reference to, it clearly shows the physical relationship between the French River Provincial Park and the Dokis First Nation, and that physical relationship is what causes our First Nation to experience this distress. The map clearly outlines that the park literally surrounds our First Nation and therefore has been deemed to be the driving force behind our concerns.

At this time it is unclear to us if the French River Provincial Park is presently classified under section 7 of the act as a wilderness-class park, a nature reserve-class park, a cultural heritage-class park, a natural environment-class park, a waterway-class park or a recreational-class park. To the Dokis First Nation, it doesn't matter which class of park the French River Provincial Park falls under, as we are just as concerned about the protection issue as the provincial government, and that protection issue seems to be the main point raised by the province in this housekeeping initiative.

Now, the reason for the act amendment: At this time we are concentrating on an amendment to Bill 11, the provincial park act, respecting the five prohibited uses under section 15, one of which is the generation of electricity. We are not only concerned about the provincial park system preventing our First Nation from pursuing economic opportunities in hydropower; we are also concerned about the other prohibited uses, which we may want to pursue in the future.

In the spirit of sustainability, we would like to conduct ourselves in such a manner that our actions and initiatives don't preclude future generations—your future generations and ours—from enjoying the French River Provincial Park in all of her majesty and pristine wilderness. In that same spirit of sustainability, the Dokis First Nation should not be precluded from our attempts to become self-sufficient by virtue of a provincial act that has the ability to stifle our plans to develop ourselves economically and financially.

I want to thank the members of the standing committee on the Legislative Assembly for allowing me the opportunity to have a brief discussion with you on this piece of legislation that has a direct impact on what we as a First Nation are planning to accomplish. Thank you.

The Chair: Thank you very much. I certainly commend both you and the staff of the Legislature for making the technology work perfectly and on the first try.

We should have time for one very brief question from each caucus, beginning with Mr. Bisson.

Mr. Bisson: I have two questions, but if I have to pick one: Are you confident that a non-derogation clause in itself will be enough to protect your right to develop this initiative?

Mr. Restoule: To me, it's unclear right now, but it may be. It may be, but I'm not exactly sure.

Mr. Bisson: Nobody has told you where that particular park falls under the classification? Is MNR not able to tell you?

Mr. Restoule: I haven't really talked to them about it yet. That's why I didn't know which one they were actually classifying it under.

Mr. Oraziotti: Thank you, Mr. Restoule, for your presentation. It's a pleasure to hear from you today.

My understanding is that there will be provision and allowance for the development of hydro in certain circumstances. My question is around the sale of hydro. Is this for internal use for the band, for supply, or is this to

be sold back to the Ontario grid? Where do you see this going?

Mr. Restoule: I believe the band council right now is basically looking at both of those options. They want to be able to supply power to our First Nation at a slightly reduced cost, but still charging them for the service, and the remainder will be sold to Ontario Hydro or Hydro One or any independent market operator. So it's a combination of both.

Mr. Oraziotti: Thank you very much.

Mr. Miller: Hello, Jack. Norm Miller here. Thank you for your presentation. I've been to the site and seen the location of your hydro project. Probably the key point is that you do plan and hope to sell onto the grid. As I understand it, the way the bill currently reads allows for hydro generation projects, but only for off-grid communities. So you would need a change in this bill to be able to do what you want to do, which is to supply your community but also to sell to the grid. That's part of my first question, but seeing as I only get one question, I want to combine it with a couple of others. I know you have forestry operations south of the French River, that I assume are on crown land, not in the park. Do you have concerns about whether this bill will affect your access to that land? I know it's very important to your community.

The Chair: Gentlemen, I need you to be very economical in the balance of the time.

Mr. Miller: Yes. In terms of the hydro project, it's a run-of-the-river project. Do you see that affecting the ecological integrity of the area?

Mr. Restoule: I'll try to answer the first part of your question. For our forestry operations, a buffer was created on the provincial park from the shoreline. We are respecting that buffer. So that isn't an issue right now.

With respect to the second portion of your question, if I can remember it correctly, you were asking whether the project will ecologically damage the system. No, it will not. We're going to try to design the dam in such a way that it will be aesthetically pleasing to any visitors. We are living on this river as well, so we want to make sure this project is done properly so it's not an eyesore. We want to be able to design this properly so it looks good. We're not just going to throw up any old structure here.

The Chair: Thank you.

Mr. Miller: And the dam structure is already there at this time?

Mr. Restoule: Yes. There are a couple of structures already there. What's happening is that Public Works wants to rebuild Big Chaudière and we want to piggy-back on that site because both of those sites are feasible. There's one called Big Chaudière and the other one's called—

The Chair: Thank you very much, Mr. Restoule and Mr. Miller. Thank you for taking the time to go to North Bay to make this videoconference deputation to us this morning.

1140

ONTARIO NATURE

The Chair: Our next deputation will be from Ontario Nature; Wendy Francis. Please be seated and make yourself comfortable. Welcome. If you've been here for a while, you generally get the protocol. You've got 15 minutes to do your deputation. If you leave any time remaining it will be divided among the parties for questions. Please introduce yourself for the purposes of Hansard and then begin.

Ms. Wendy Francis: Thank you very much. My name is Wendy Francis. I am the director of conservation and science at Ontario Nature. I appreciate the opportunity to present Ontario Nature's views on Bill 11 today. I will make some brief comments and hopefully leave some time for questions from the committee.

Ontario Nature, formerly the Federation of Ontario Naturalists, is a province-wide network of 140 naturalist clubs and 25,000 members. Our mission is to protect nature in Ontario through parks and other protected areas, through legislation and policy and through our own system of nature reserves. We strive to connect people with nature.

Ontario Nature's efforts helped to shepherd in Ontario's first parks act. We are pleased to have been closely involved in the efforts to enact a new Provincial Parks and Conservation Reserves Act for Ontario.

Ontario Nature commends the government of Ontario for introducing these significant changes to provincial parks and conservation reserves, to the system. Bill 11 contains many strong provisions that put nature first in the management of parks and conservation reserves. We support the general thrust and content of the bill.

Today I'm going to focus on four specific areas where we think the bill needs improvement:

(1) the provisions regarding ecological integrity of Ontario's parks and conservation reserves;

(2) the prospects for logging, mining and hydroelectric development in Ontario's parks and conservation reserves;

(3) the process for adjusting the boundaries of Ontario's parks and conservation reserves; and

(4) the treatment of aboriginal and treaty rights in Bill 11 and in relation to provincial parks and conservation reserves.

With respect to those four issues, the first one that I will address is ecological integrity. "Ecological integrity" is a shorthand that's used by parks managers to describe a landscape that is in its natural condition. It means that the forces of nature that help shape the landscape and its wild inhabitants continue to function without impairment by human interference. When a landscape has ecological integrity, it maintains healthy populations of all its native plant and animal species and they continue to interact with each other as they have done for millennia. An ecologically intact landscape is also protected from pollution, industrial development, motorized transporta-

tion and other influences that impair natural habitats or put native species at risk.

Bill 11 takes a major step forward by providing that ensuring the maintenance of ecological integrity is an objective in the management and establishment of provincial parks and conservation reserves. This is a very significant achievement. However, the specific contents of the bill do not go far enough in ensuring that ecological integrity within provincial parks and conservation reserves will be maintained, for often the greatest threat to ecological integrity comes from activities that occur outside park boundaries but have an impact inside their boundaries. Yet Bill 11 does not address at all how parks and conservation reserves will be protected from the negative impacts of adjacent activities. In order to achieve ecological integrity within the boundaries of parks and conservation reserves, parks managers must be enabled to have regard to, to plan for and to influence existing and proposed activities outside their boundaries. CPAWS Wildlands League has submitted specific recommendations regarding how the bill needs to be amended to ensure that parks managers are given the discretion and the capacity to take into account activities outside park boundaries and other amendments to ensure that the maintenance and restoration of ecological integrity is the top management priority, and Ontario Nature endorses those specific recommendations.

The second issue I wish to draw to your attention is the prospect for logging, mining and hydroelectric development. Provincial parks are no place for industrial development. For a variety of reasons, it is essential that there be places on the landscape that remain in their natural condition. These range from maintaining benchmarks against which our efforts to manage other landscapes can be compared, to providing people with opportunities to experience, learn from, recreate in and gain spiritual renewal from the natural world.

Bill 11 contains a general prohibition against industrial development in provincial parks and conservation reserves. However, this provision is greatly weakened by a number of exceptions that allow timber harvesting and the establishment of new aggregate pits in Algonquin Provincial Park, improvements to hydroelectric generation facilities, and new roads and trails to access mining claims either within a park or even for minerals or timber outside a park. These many exceptions have the potential to undermine ecological integrity in many parks and conservation reserves, and they must be removed from the bill. Again, we endorse the language of the recommendations from CPAWS Wildlands League in that regard.

The third issue I will address is boundary adjustments. As currently drafted, Bill 11 would allow the boundaries of a provincial park or conservation reserve to be decreased by cabinet and allow cabinet to dispose of lands within a park, provided it's less than 2% of the lands of a park that is less than 100 hectares in size. These provisions create a loophole that threatens the integrity of the park system and create an opportunity for parks or conservation reserves to be diminished for commercial

purposes. We recommend that the establishment of parks or the increase in their size be a matter for cabinet but that the full weight of the Legislature must be brought to bear on any proposal to decrease the size of a park or to dispose of any its lands.

The final issue I will address is aboriginal and treaty rights. Bill 11 does not address the impacts of park creation or management on aboriginal or treaty rights. This is unacceptable in today's climate. Elsewhere in Canada, such as British Columbia and the northern territories, aboriginal peoples play a major role in parks and wildlife management. Ontario has a global responsibility to help protect the largest expanse of intact boreal forest left on the planet. This will be possible only if Ontario's aboriginal people's are fully involved in the establishment and management of northern protected areas.

Ontario Nature recommends that Bill 11 be amended to require consultation with local aboriginal communities and to provide for co-operative management of parks and conservation reserves by local aboriginal communities. We also endorse the inclusion of a derogation clause in the bill that would ensure that aboriginal and treaty rights are not affected by the creation and establishment of parks and conservation reserves.

That concludes my comments. Again, we support the very specific language recommendations that have been made by CPAWS Wildlands League. In particular, we feel that these four issues—ecological integrity, industrial development, boundaries, and aboriginal and treaty rights—are the most important ones for the bill to address. I would be happy to answer any questions the committee may have.

The Chair: Thank you very much. We have just a little under two minutes for each party, beginning with Mr. Miller.

Mr. Miller: Thank you very much for your presentation. It's good timing, as we just heard from Mr. Restoule at Dokis First Nation. Obviously, his concern is a hydroelectric generation project that he wants to sell to the grid, which would not be allowed by this bill. He was fairly clear, in his mind—and I'm sure they've done studies—that it's not going to have a negative effect on the ecology of the area. Do you have some comments on that? I'd be interested in hearing your comments.

Ms. Francis: We support the establishment of small-scale hydro projects that will allow these remote communities to produce and generate their own power for their own use, but we would not support the production of power to be exported outside of the community. In supporting hydroelectric development within protected areas, normally our position would be not to have any of that kind of industrial development in a protected area, but in the case of a northern community, it makes sense to get them off diesel and other very expensive and damaging forms of energy.

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Mr. Miller: They're on the grid at this time. This is the French River we're talking about, so they're on the grid. They're looking at economic development. There

are not too many opportunities for them for economic development, so it's fairly critical to the community, as is their forestry. You have to cross the park to access the area where they do forestry. It's really quite critical to their community.

Ms. Francis: Yes, it's difficult. I would prefer to look at areas outside the park for those kinds of opportunities.

The Chair: Thank you. Mr. Bisson.

Mr. Bisson: As one who represents First Nations up in the James Bay area, I think that last comment would be taken quite badly by a lot of my friends in First Nations. We came into the north, said, "We're going to develop dams and such," and left them with absolutely nothing and devastated their communities. If we were to take the position that they can have hydro for their own use but can't sell to the grid, I think it would be taken somewhat negatively. Do you still feel that?

Ms. Francis: Yes.

Mr. Bisson: Really?

Ms. Francis: Yes. There obviously needs to be a balancing between—and I'm well aware of some of the dire conditions facing northern communities, and they must be addressed.

Mr. Bisson: In some cases, it's the only chance for economic development they have.

Ms. Francis: Well, I wonder if that's really the case. Has there been work done on what the potential for a diversity of economic activities might be?

Mr. Bisson: I hear you. Neither the federal nor provincial governments have done a very good job at working with First Nations to identify that, but I'm just saying be aware. A lot of people would take exception to that.

I want to come back to your section 8 comment.

The Chair: Briefly.

Mr. Bisson: What you're saying is that any amendment to the park would need to be not just the tabling in the Legislature of what it is the minister, he or she, wants to do but that it would take an order in council and a vote of the Legislature to make any amendments to a park boundary. That's what you're basically—

Ms. Francis: That would decrease the size of a boundary.

Mr. Bisson: Or increase?

Ms. Francis: No, an increase does not need the—

Mr. Bisson: Oh, okay. I just wanted to be clear. So for a decrease you would have to have a vote of the assembly, period.

Ms. Francis: Well, that would go through the normal—as if it were a bill, yes.

The Chair: Thank you very much. Mr. Oraziotti.

Mr. Oraziotti: Thanks, Ms. Francis, for your presentation this morning. I'd like to clarify a couple of things.

You're indicating that you are insistent upon consultation with First Nations. I just want to make it very clear from the government's side that we sent letters to all chiefs and all political organizations and had numerous consultations in the north as well. Only a handful of

organizations and First Nations groups have taken us up on some of that consultation to date. That input and that opportunity has been extended, and we fully continue to negotiate and discuss those issues with First Nations organizations in the province of Ontario. I want to make that clear as well.

You have just heard Mr. Restoule make comments with respect to the sale of power. This issue around the deregulation aspect is important. If we're going to listen to First Nations and respect some of their interests, it appears that there needs to be a change in this particular aspect to allow for the sale of electricity, to allow resources or financial ability for First Nations to improve certain circumstances within their own First Nation. How do you resolve those seemingly challenging issues between what we may be able to do here in terms of the deregulation of a portion of the park that would allow for the development of hydroelectricity—and that's not to say that we can't acquire additional lands to bring into the park to compensate for what might be deregulated—and balance that with the needs of First Nations communities and what they're saying to us with respect to this legislation?

The Chair: That was a long question. We will need an economic answer.

Ms. Francis: There have been other examples of parks where that sort of win-win solution has been achieved, where there has been an ability to actually trade off perhaps some lands that might have an economic use for adding to the park. I'm not familiar enough with the specific park to say whether that could be the case, but I would be open to those sorts of solutions.

Mr. Oraziotti: Okay. I appreciate that.

The Chair: Thank you again for coming in and taking the time to make your deputation this morning. This committee stands in recess until 3:30 this afternoon or the close of routine proceedings, whichever is later.

The committee recessed from 1155 to 1538.

The Chair: Ladies and gentlemen, in the reasonable expectation that the balance of our members are on their way in after proceedings in the House, and for those of you who are joining us to make your deputations or to observe them the standing rules of the House provide that committees can't begin until after petition time and the calling of orders of the day, and that event having just happened, I will bring the committee to order. This is our return from our recess that began at 12 noon today. We'll be hearing a number of other deputations pursuant to Bill 11.

KAWARTHA HERITAGE CONSERVANCY

The Chair: Our first one is from the Kawartha Heritage Conservancy, Mr. Ian Attridge, who is seated and ready to go. Mr. Attridge, I hope you've had a chance to get comfortable and grab yourself a cup of tea or whatever. You'll have 15 minutes to make your deputation before us this afternoon. If you leave any time remaining, I'll distribute it among the parties to ask you questions.

Please begin by introducing yourself for the purposes of Hansard and then proceed.

Mr. Ian Attridge: My name is Ian Attridge and I'm the executive director and counsel of the Kawartha Heritage Conservancy. We are a non-profit charitable organization focused on the Kawartha bioregion: essentially, Peterborough, Lindsay, down on to the Oak Ridges moraine and up to the northern part of those two counties. We are involved in land securement, the acquisition of land and the conservation of the natural and cultural heritage of the Kawartha bioregion through working directly with landowners, gathering information, contributing toward land use planning and other measures and sharing that to create and, really, foster sustainability in our region.

Bill 11 is an important, substantial and positive step toward updating Ontario's protected areas legislation. We believe that making ecological integrity a central goal of the legislation is a welcome direction, and it's also consistent with policy initiatives found at the international, national and provincial levels. However, we feel this concept of ecological integrity needs to be more fully reflected and integrated throughout the legislation on a consistent basis, and also to pick up the concept the federal government has adopted in their parks legislation, and that is the notion of cultural or commemorative integrity.

Through protecting watersheds, ecosystems, cultural sites and recreational experiences, we believe that protected areas add value to local communities and properties in the Kawartha region, and indeed across the province. We want to play a constructive role in working with Ontario Parks, the Ministry of Natural Resources and other agencies, stakeholders and community groups to foster sustainability in our region, and we certainly see that protected areas are one component of doing so in the Kawarthas.

One of the things we've identified in our review of Bill 11 is that it is essentially silent on measures to manage activities external to a protected area, and I'll use "protected area" to lump parks and conservation reserves. Activities outside of a protected area may well have impacts within the park and within conservation reserves, and the reciprocal may happen as well, where activities within those protected areas can affect important features beyond that.

When Canada ratified the Convention on Biological Diversity back in 1992, there was an obligation that extended to the province, and I've documented some of those statements under that convention, a commitment to look at the management of lands surrounding protected areas. I won't read that today. I'll leave that for you to have a closer look on page 2. There have been very few legal and policy responses to that directive, to that commitment, found in Ontario policy and legislation. There is a brief and fairly weak statement of that in the provincial policy statement under the Planning Act by the province, and yet the statement there is weaker than what's in place for wetlands, for fish habitat, for things such as designated heritage properties, species at risk or

even the kind of language that's used for airports and waste management systems. It's a fairly weak statement.

The sciences of conservation biology and landscape ecology are pointing to the need to look at landscape-level planning and landscape-level initiatives that will link and ensure that, as climate change and other changes in our landscape occur, there will be some resiliency, some flexibility over time and the ability of wildlife and ecological functions to persist over the longer term. Ontario has at least four biosphere reserves, such as the Niagara Escarpment. In that case, they are looking at a core area with a surrounding buffer area and research initiatives to look at that interaction between a protected area, a core and the surrounding landscape.

Accordingly, we feel that Bill 11 should better reflect the science, the experience in biosphere reserves and the international commitments, and overcome some of the weak policy and legal responses by adopting a series of external integrity measures—activities and legal measures within the bill—that will address some of those external pressures. Other provinces and jurisdictions have developed mechanisms to do so. I've got a list of some of those examples on page 3, and will let you have a closer look at that. I'll highlight some as I move through some of the proposals I have made.

What I've done in the remaining pages is identify some proposals. You'll note, as you reflect upon them, that many of them do not infringe on the jurisdiction of either government agencies or entities that have responsibilities. In fact, what they're doing is identifying an issue and creating a conversation to look at resolving anything that may arise. Some include support for land acquisition and stewardship. There are many opportunities to support that, and law, and this bill in particular, can do a lot to frame and support that stewardship initiative. The Ministry of Natural Resources has been putting in place a number of measures for conservation easements in law, and also through funding for land trusts and other conservation charities. We welcome that very much, but more needs to be done, particularly to ensure that that's effective to work well with protected areas.

I have a number of proposals to put before you, starting on page 4. The first one is to ensure that protected area staff are explicitly authorized to engage in processes that are occurring beyond the boundaries but which may well have an effect internally. You can find an example of that in the Canada National Parks Act.

The second is to require that management planning documents—several forms are identified in the bill—identify important natural and cultural heritage resources external to that protected area, perhaps within a circumference of some five kilometres, and also identify ways to maintain and restore connectivity—links, corridors, trails, greenways—with the surrounding area. The mechanisms to do that can be varied. They can be stewardship, land use planning—a whole raft of measures. Identifying a strategy and letting that be developed at the local park

or conservation reserve level can be very helpful—putting that in legislation so it can be developed.

The third is to require that all management planning documents identify a strategy, including voluntary and regulatory means, for promoting ecological and cultural integrity outside and near to a protected area.

The fourth would be to look beyond individual protected areas and to say that there need to be policies and direction in the bill to deal with the system of protected areas, and that that system plan identify existing and potential ecological linkages among those protected areas, and require a periodic report, such as the United States does in their legislation.

The fifth is to allow the Minister of Natural Resources to add conditions to an approval or permit authorized, perhaps, by another provincial ministry or agency, and to add conditions where that may affect activities within the protected area itself.

One of the key ones I identify here is number 6: fostering partnerships, land securement, creating that dialogue, that engagement beyond the boundaries. There are a number of possibilities there to explicitly authorize a variety of agreements between the minister and perhaps senior protected area staff to foster stewardship, education, land securement and related measures. There's a general power in there now, but making it explicit to cover those kinds of things will inspire creativity and innovation in those kinds of discussions and partnerships that may emerge.

There are tax incentives that might be looked at. For example, if a land trust such as my own was involved in acquiring land that would either complement a protected area or perhaps, at some point, be transferred to Ontario Parks or the Ministry of Natural Resources, then perhaps there's the opportunity to exempt that transfer from land transfer tax. That would be one measure that would foster these kinds of arrangements with conservation charities.

1550

One that would also help is the increasing use of conservation easements. Where a registered interest in land and title is put in place, the Assessment Act is silent on how to deal with that for property tax purposes. MPAC—the Municipal Property Assessment Corp.—has not had any direction from the Assessment Act on that new mechanism to foster ecological integrity external to a protected area. Without that direction, we're getting varied responses, and it's really creating a disincentive for landowners and their advisers to figure out the implications of—

The Chair: You have about two minutes.

Mr. Attridge: Thank you. Dealing with the Municipal Freedom of Information and Protection of Privacy Act: allowing for stewardship activities to occur and allowing for efficient sharing of data between MPAC and conservation charities and agencies. A number of other measures allowing charities to match a bid of a tax sale—that occurred in one case near Kawartha Highlands provincial park, just north of Peterborough, in our area, where there was a site available but the municipality

could not purchase that and there was no opportunity, unlike the measures that are in place in Spain, to look at matching that.

A number of other things: certainly better addressing aboriginal and treaty rights, looking at co-management opportunities and at recognizing traditional and local community knowledge in this process. That needs to be more explicit, in our view.

Interministerial consultation is important, looking at activities beyond the area, and ensuring that park and conservation reserve enforcement personnel are able to exercise some of those powers beyond the protected area boundary in order that they can protect the resources found within them.

I trust that that is a helpful series of suggestions for looking at that external integrity issue, and that some of these may see their way into the bill.

The Chair: That just about concludes the time we had for your presentation. Thank you so much for coming in to share your thoughts with us today.

ONTARIO FUR MANAGERS FEDERATION

The Chair: The Ontario Fur Managers Federation: Mr. Stewart Frerotte and Mr. Howard Noseworthy. Welcome, gentlemen. You have 15 minutes to share your thoughts with the committee. If you leave any time, I'll divide it among the parties for questions. Please begin by identifying yourselves for the purposes of Hansard and then proceed.

Mr. Howard Noseworthy: Thank you. My name is Howard Noseworthy. I'm the general manager of the Ontario Fur Managers Federation.

Mr. Stewart Frerotte: My name is Stewart Frerotte. I'm the southern region vice-president of the Ontario Fur Managers Federation. I represent the southern half of Ontario.

Mr. Noseworthy: The Ontario Fur Managers Federation and our 5,000 members appreciate the opportunity to appear before the committee this afternoon. We do express our disappointment that committee hearings are not being held outside Toronto. We have thousands of members and dozens of local trappers' councils in beautiful cities and towns of northern and rural Ontario. Many of them have their stories that we hoped might have been heard as well.

This province recently went through a multi-year public consultation and public policy writing exercise, Lands for Life/Living Legacy, which, despite its quirks, did provide a degree of certainty to resource users, including trappers, which was a commitment of the government of the day. We were pleased to hear Minister Ramsay tell us and other organizations that he and his government are committed to the Living Legacy land use strategy. We trust in the minister's ongoing commitment that Bill 11 will not change what is, in effect, on the ground today.

Trapping was one of the few activities that had the full support of all three Lands for Life round tables. In fact, in

the provincial forum, virtually everyone acknowledged that the trapper's footprint on the land is incredibly small.

The Living Legacy land use strategy permits trapping to continue in all provincial parks and protected areas, with the exception of existing wilderness parks and new and existing nature reserve parks. As I said, the process that has evolved under Living Legacy is not perfect, but at least the ground rules that have been established to allow trapping to continue in almost all provincial parks and conservation reserves provide us with a process that is manageable.

While the trapper's footprint on the land is incredibly small, the footprint of parks and protected areas on Ontario's traplines is incredibly huge. Provincial parks and protected areas affect as many as 900 registered traplines and perhaps as many as 2,000 trappers in this province. As an example, an excerpt from the Black Sturgeon River Park management plan says that, "Existing commercial trapping is permitted to continue within the Black Sturgeon River Provincial Park. There are eight active, registered traplines within the park boundary"—eight registered traplines within one park, and we have hundreds of provincial parks and reserves.

Trapping as an activity and a livelihood has existed for centuries, with some traplines having been in the same family for many generations, predating even the requirement for formal trapping licences or the formal designation of trapline boundaries. Nonetheless, as early as 1916, the Ontario Game and Fisheries Act required that trappers be licensed and that trapline areas be designated in the licence. Prior to 1954, Ontario had just eight provincial parks but thousands of traplines. Clearly, parks and protected areas have been placed upon Ontario's traplines and not vice versa.

Trappers are spread across Ontario's public lands, their numbers controlled by registered traplines and access to crown land in which permission is granted to limited numbers in any given area. While this ensures that trappers are sparsely distributed, it also dictates that a trapper who is displaced by a park or protected area cannot simply move over. There's already another trapper there.

Virtually all park management plans, including those that prohibit commercial trapping, make allowance for trapping for the protection of park values and infrastructure. As an example, an excerpt from the Neys Provincial Park preliminary management plan says, "Commercial fur trapping is prohibited within the boundaries of the park," but "Nuisance animals will be trapped under the supervision of or directly by Ontario Parks staff, either for protection of human health and safety, health of animal species or the protection of park infrastructure." It is the contention of the Ontario Fur Managers Federation that appropriate park management plans should include wildlife management plans, including regulated commercial trapping, to avoid situations in which our valuable furbearers come to be considered as nothing more than a nuisance.

Trappers remove only a harvestable surplus of furbearers annually. Trapping and trappers do not threaten furbearer populations, conservation, habitat, biodiversity or ecological integrity.

Most trapping occurs at times of year when provincial parks are frequented little by the general public and most often in areas of parks that have little public traffic. Most park visitors are unaware of trapping activities, indicating that trapping does not interfere with the pursuits of other park visitors.

In our opinion, trapping should be a protected use within Bill 11 to ensure certainty to trappers. An example of how this might be done is contained within the Kawartha Highlands Signature Site Park Act, in section 11(1), which says, "For greater certainty, a person may hunt, fish and trap in the park in accordance with the Fish and Wildlife Conservation Act." Regulation and policy that can be easily changed offer much less certainty.

The Kawartha Highlands Signature Site Park Act also provides an appropriate example of a means to protect trapper access via motorized transportation while controlling unregulated access on trapper trails. It says, in section 14(4), "A person who holds a licence to trap under the Fish and Wildlife Conservation Act in a registered trapline area that is situated in the park, or a person authorized by the licence holder, may, without charge, enter the park and operate a motor vehicle or a motorized snow vehicle anywhere in the park but only to the extent that it is necessary in order to access the registered trapline area for the purpose of trapping."

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Trappers depend on a healthy environment and abundant furbearer populations to continue to harvest the wild furbearer resource in a sustainable manner. In this regard, trappers are not at odds with other sectors of the public that espouse similar values.

Public uses of public land must be broad enough to encompass all uses that do not directly detract from the sustainability or long-term viability of parks' and protected areas' values. The harvestable surplus of furbearers removed by trappers does not threaten other public uses of public land, nor should other uses be allowed to take precedence by the exclusion of trapping. Public uses of Ontario's public lands must be broad enough to encompass all compatible uses, including trapping.

We have been advised by the Minister of Natural Resources and by Ontario Parks staff that the current exercise to enact the new legislation represented by Bill 11 is not an exercise to create more parks. Nonetheless, if conservation reserves are governed by parks legislation, we remain concerned that in all but name they will become *de facto* parks. Adequate protection of conservation reserves is already provided under the existing legislation and regulation of the Public Lands Act.

Some of our registered traplines are hundreds of square kilometres in area, impossible to traverse without the use of motorized equipment. We understand the concern that Bill 11 should adequately address the un-

controlled use of snowmobiles and all-terrain vehicles within protected areas. But Bill 11, in subsection 19(4), does indicate that trails in provincial parks or conservation reserves "that exist on the day this section is proclaimed in force shall be deemed to comply with the policies under this act and to have the approval of the minister." We encourage the committee to recommend that this be explicitly inclusive of the trails required by trappers to travel to, from and within their trapline areas.

Subsection 13(3) of Bill 11 continues, according to their terms, those commercial agreements made in respect of the use of land in provincial parks or conservation reserves that are in effect the day the section is proclaimed in force and deems them to have been made under the act. We encourage the committee to recommend that trapping licences and the trapline boundaries described therein are included within the meaning of subsection 13(3), or to revise subsection 13(3) to be explicitly inclusive of trapping licences and traplines.

The Chair: Just to advise, you have a little less than three minutes.

Mr. Noseworthy: Thank you.

Section 54 of Bill 11 notes that the Public Lands Act does not apply to provincial parks or conservation reserves. However, Minister Ramsay has committed that the Living Legacy land use strategy does apply. Many of the policies currently pertinent to trapping in conservation reserves are policies that have been made under the Public Lands Act. We encourage the committee to recommend that the policies made under the Public Lands Act that are applicable to trapping will be deemed to be policies made under Bill 11 and applied as such.

Minister Ramsay and his colleagues, the wildlife ministers of Canada, recently—in fact, in Whitehorse, Yukon, September 16, 2004—issued a statement in support of trapping that stated in part, "Trappers have proven to be effective stewards of the environment, informing wildlife managers of changes in population numbers, alerting them to the presence of disease, and providing insight on the possible effects of climate change on the biodiversity in their area." The wildlife ministers have acknowledged a situation that exists across the Canadian landscape: Trappers form an unbroken chain of eyes and ears on the land, often where no other observers exist. It would be unconscionable that parks and protected areas should be excluded from the stewardship protection provided by trappers.

We believe that the wildlife ministers have acknowledged that the actions of trappers over many generations have fostered the sustainable resource use and conservation principles that allow for the continued health of Ontario's provincial parks and conservation reserves. Removing trappers from the land would act as a direct threat to some of Ontario's most cherished public places. We encourage the committee, in its review, to recommend the continuation of trapping and its necessary access in all provincial parks and conservation reserves.

Thank you very much and we'd be happy to entertain questions.

The Chair: That pretty much concludes the time we have allotted for you. I'd like to thank you on behalf of the committee for having taken the time to come in to make your deputation for us today.

MATAWA FIRST NATIONS MANAGEMENT

The Chair: Our next presentation comes to us by videoconference from Thunder Bay, from the Matawa First Nations Management. I'd like to welcome Chief Arthur Moore of the Constance Lake First Nation and Paul Capon, who are joining us. Gentlemen, can you hear us?

Chief Arthur Moore: Yes, we can hear you.

The Chair: Okay. I'd like to welcome you. You'll be addressing the standing committee on the Legislative Assembly. We are here at the Ontario Legislative Assembly buildings in Toronto. Seated around me are the committee members representing all three parties. You have 15 minutes to make your deputation before us today. If you leave any time remaining, I'll divide it among the parties for questions. Please begin by introducing yourselves for the purposes of Hansard, and then continue.

Chief Moore: My name is Chief Arthur Moore from Constance Lake First Nation. It's located about 40 kilometres west of Hearst, Ontario. We're about five to six hours from Highway 11-17 towards Thunder Bay. I belong to the Matawa Tribal Council. The Matawa Tribal Council has about 10 First Nations and we belong with the Nishnawbe-Aski Nation. Later on, the Grand Chief will make our presentation regarding Bill 11.

I'd like to thank you for allowing me to speak to the committee.

Mr. Paul Capon: My name is Paul Capon and I work with Matawa First Nation, which is essentially the 10 First Nations of the tribal council, and I work with them as a political adviser. Thank you also for letting me present as well.

Chief Moore: What we want to do is basically bring to your attention a letter that was written to David Ramsay, Minister of Natural Resources, on March 22, 2006. It indicated:

"On November 9, 2004, Matawa First Nations wrote to Bob Moos, Ministry of Natural Resources staff lead, regarding the proposed parks and protected area legislation with their concerns. The Matawa chiefs, along with the other chiefs of Nishnawbe-Aski Nation, also rejected this proposed legislation when a ministry official, Ms. Adair Ireland, gave a presentation at their assembly. Finally, on December 16, 2004, the Matawa chiefs wrote again to Bob Moos, as per the Environmental Bill of Rights registry, wanting to know how the ministry was going to initiate consultation with First Nations."

We haven't heard anything from the Ministry of Natural Resources and their staff regarding the consultation process. As you know, there was a booklet that was distributed to all the members of Matawa First

Nations and that booklet indicated that there would be consultation with First Nations, on page 2.

"Now that Bill 11 has been introduced to the Legislature in its first reading, it is imperative that it be referred to committee for hearings that will consult with First Nations. Amendments to this Bill 11 are needed to reflect the concerns of First Nations, whose traditional territory is often covered by these parks and conservation areas.

"Public information sessions and ministry resource material mention consultation with First Nations and aboriginal people. This has not happened," as I indicated earlier. "First Nations are not satisfied with the existing parks legislation, and any new laws should provide an opportunity to correct past wrongs. Therefore, the bill should not go forward until its consultation is complete.

"Please see the attached points of concern regarding the consultation process and problems with the legislation.

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Looking at the background and consultative process, the Matawa First Nations that are signatories to Treaty 9 never gave up their water rights in 1905 and/or access to lands for personal livelihood in or near parks.

The Ministry of Natural Resources has over the years created many parks and protected areas in the traditional territory of First Nations, often without their consent or without compensation. This is very true of the water parks on the Albany, Attawapiskat, Winisk, Attwood, Ogoki, Nakina, and Aguasabon Rivers, which abut or are near our First Nations. For example, in our Matawa tribal council there was a dam that was constructed near Martens Falls, the Waboose dam, to divert the river system. It affected the First Nations there. It depleted their supply of fish and, as well, impacted on their community. The other area that was impacted was the Albany River park. It impacted on their development.

These parks and protected areas have limited the economic potential of the surrounding First Nations. Webequie First Nation is in the middle of Winisk River Provincial Park and it took over 20 years to secure reserve status in their traditional territory.

The proposed vision for the legislation will have a direct impact on First Nations and their ability to realize the economic potential for the water power and energy resources in their traditional territory.

Ontario has not provided resources for meaningful consultation and review, and adequate time, for the proposed legislation as required by constitutionally protected aboriginal and treaty rights. While the vision talks about aboriginal consultation, no community sessions were held in any of the Matawa First Nations.

Just recently I was informed by one of the district managers that there was a consultation. We do have numerous meetings with MNR district offices, but it doesn't mean that we're consulting with them regarding Bill 11. We normally would meet on other matters relating to trapping and forestry issues.

The components of the legislation that we want to present:

(1) Principles: Respect for aboriginal and treaty rights is not mentioned as one of the overriding principles. There is not even a non-derogation clause. I am sure the grand chief will bring that up when he does his presentation.

(2) Goals and objectives: Again, applications for aboriginal people are not mentioned; for example, usage, trapping, potential land claims, etc.

(3) Zoning: No mention is made of aboriginal parks, although Ontario Parks currently has some parks under First Nations management and they are developing a joint park in the Pikangikum area.

(4) Assess wilderness areas: Recognition of traditional environmental knowledge, TEK, in the legislation is needed.

(5) Management direction and state of the protected areas reporting—The State of the Forest, a reporting guide for crown lands under the Crown Forest Sustainability Act: This reporting does not adequately provide information concerning First Nations and their relationship to the forest. Jointly developed criteria and indicators are needed before they are implemented to show the issues and concerns of First Nations.

(6) Major industrial uses: It excludes hydro and wind development unless it is for an off-grid community "where no economically viable alternative exists." This is an impediment to First Nations because an economically viable alternative may conflict with other aboriginal values. First Nations need much more latitude and ability to initiate economic development in their traditional territories. Interestingly, logging in Algonquin Park and existing hydro developments are allowed. A First Nations exemption is needed. Access to First Nations on all weather or seasons roads is another exemption that is required.

(7) Continue to address non-industrial uses in policy: This could include hunting, tourism, etc. by regulations instead of legislation. Recognition of First Nations non-industrial uses is required as well.

(8) Administration and enforcement: There is no recognition of recruitment or retention of aboriginal staff in Ontario parks, input from First Nations, or impacts to First Nations. Increased power to the minister to make regulations with cabinet approval is supported through.

So these are our concerns as the Matawa tribal council. One of the salient topics I wanted to bring up is the non-derogation clause. I'm sure the grand chief will be bringing that up during his presentation as well, with the full management and traditional harvesting issues.

The Chair: Gentlemen, thank you very—

Chief Moore: Thank you.

The Chair: Sorry. Was there any comment that you wished to add before we do questions?

Chief Moore: No comment at the moment.

The Chair: Thank you. We should have time for just one question, and it would be the turn of the PC caucus. Mr. Miller.

Mr. Miller: Hello, Chief Moore and Paul. Thank you for your presentation today.

One of your points has to do with hydroelectric generation and deriving economic benefit from it. The way Bill 11 is written at this time, you're able to do hydroelectric projects, but only if they're just supporting an off-grid community. Earlier, we heard from Dokis First Nation, which has a project they want to do, and they are connected to the grid. Is that a change to Bill 11 that you would like to see as well, so that you have the ability to develop a project that is connected to the grid?

Chief Moore: Yes, we would like to see that, because we have potential companies that are willing to partner with Constance Lake First Nation. One is from Quebec and the other one is from British Columbia. This potential development would take place near the Shekak dam. The area we were looking at is Highwood Falls. At the moment, it's protected. I did speak with the district manager regarding this potential development.

We're also looking at the KB River—

Mr. Miller: Sorry, which river was that? I missed the name of the river.

Chief Moore: Yes, it's Kabina River. In short I call it "KB."

You probably heard about the development going on in Hearst to do with the ethanol project. The big corporation from the United States, MEMS, is coming in. Constance Lake was hoping that we would connect that project with that ethanol project.

The Chair: Gentlemen, I'm sorry to cut you off. I want to thank you very much for your time. That concludes the time we have for this deputation. Thank you very much for the time you've put into preparing for us, and certainly for joining us by videoconference today from Thunder Bay.

ONTARIO WATERPOWER ASSOCIATION

The Chair: Our next deputation is going to be from the Ontario Waterpower Association, Mr. Paul Norris. Mr. Norris, welcome this afternoon.

Mr. Paul Norris: A pleasure to be here.

The Chair: If you've been around for more than a few minutes, you've probably figured out the routine. You have 15 minutes to make your deputation. If you leave any time remaining, it will be divided among the parties for questions. Please begin by introducing yourself for Hansard and then proceed.

Mr. Norris: Thank you, Chair, and committee members, for the opportunity to be here today. My name is Paul Norris. I'm president of the Ontario Waterpower Association.

I want to begin by saying that our industry and our association are very much interested in working within the body of the legislative framework that's been developed, and so our comments are going to be offered as suggested modifications and improvements to that piece of legislation.

The Ontario Waterpower Association was founded in 2001, and we represent the common and collective interests of the province's water power, or hydroelectric, sector. Our members own and operate almost 200 water power facilities across the province, producing, on average, one quarter of the province's electricity supply.

Our industry is committed to the responsible management and development of the province's water power resources. We have demonstrated, for over a century, that society's objectives and values can be balanced on our waterways, and we continue to make improvements to adapt to new challenges.

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Water power is Ontario's primary source of renewable energy and is key to achieving the province's economic, environmental and electricity objectives. A number of recent reports have confirmed that the province has the potential to increase the production of water power by more than 50%. Reasonable and rational land and resource management legislation, regulation and policy—cognizant of and coordinated with energy and electricity goals—are critical to maintaining existing water power production and optimizing new potential. It is within this context that our recommendations on Bill 11 are offered.

I'd like to begin by giving you our perspective on the coexistence of hydroelectric generation and parks and protected areas values. I'll talk next to some of the key challenges we see in the legislative framework as drafted and, finally, provide you with some specific areas of suggested improvement. I've also included in our deputation a copy of our clause-by-clause recommendations, which I'll leave to you to read at your leisure.

At the outset, I think it's important to recognize that values regarding water power production and ecological sustainability are not, by definition, incompatible, as would be enshrined in the proposed legislation. Ontario has a number of examples of long coexistence. At Kakabeka Falls in northwestern Ontario, a natural environment park, there has been hydroelectric production for more than 70 years. These facilities have been operating for decades in concert with societal values associated with parks and protected areas. I think it's instructive to note that the province has directed Ontario Power Generation to pursue additional water power development at Niagara Falls, the province's original signature park.

Additionally, many more examples of coexistence were recently created as a result of the proliferation of waterway parks on existing working rivers through Ontario's Living Legacy. This regional land use planning process, led by government with the direct engagement of the public, resulted in a 175% increase in the land base covered by waterway parks. Several of these parks were placed on existing managed systems. Again, a good example is the Mississagi: 490 megawatts of load-following, renewable generation in a park. This demonstrates to me that the public accepts water power production and protected areas values. Why else would you put a park on a water power river?

It's also apparent that the industry is not alone in questioning the logical disconnect between "new water power is not permitted in parks, but new parks are permitted on water power rivers." Recently, the municipal leaders of northern Ontario, through the Northern Ontario Large Urban Mayors forum, provided their report to government on supply mix and, specific to parks and protected areas, recommended the following:

(1) The government should review the extent of waterway parks created by the Living Legacy exercise from the perspective of encouraging the highest and best use of the resource and seek to find ways to liberate known hydro sites in parks for development.

(2) The government should instruct the Ontario Power Authority to include significant opportunities in parks and protected areas as practical within the time horizon of the first overall integrated power system plan.

(3) The government should amend Bill 11 so as to retain the maximum flexibility to develop viable water power sites that would be otherwise excluded.

In addition, input provided at the House debate on the bill's second reading illustrates this broader and localized support. Several members cited, in particular, the interests of First Nations in pursuing economic development opportunities through water power projects that would be constrained in the legislation. I think we just heard an example of that. Our association appreciates the interests and aspirations of these communities and is encouraging that the limitation to off-grid applications only be eliminated, providing for commercial and economic opportunities for First Nations communities in northern Ontario.

I'll move next to what we feel to be the key implications of the proposed legislation for existing and potential renewable energy. First, existing generation facilities: More than 30 existing operating water power facilities are now within the boundaries of parks and protected areas. The proposed legislation provides no certainty with respect to existing water resource management regimes. In fact, given the presumption of nonconformance, one would expect that pressures will be brought to adjust operational strategies and that redevelopment and upgrade opportunities will be limited. Compromising existing generation will only further limit the province's future energy options.

Second, existing water control structures: Approximately 100 water control structures, both government and industry-owned, have been estimated to exist within the boundaries of parks and protected areas. A number of these structures may have the ability to be managed or redeveloped for the production of new renewable energy but are constrained. The blanket exclusion of electricity production in the proposed legislation will have the effect of eliminating opportunities in existing managed systems.

Third, new greenfield opportunities: According to the Ontario Power Authority's supply mix advice to government, approximately 1,500 megawatts of opportunities are constrained by parks and protected areas, including:

—on the English River, almost 70 megawatts;

—at the Patten Post on the Mississagi, more than 250 megawatts;

—on the Missinaibi, more than 200 megawatts;

—on the Madawaska, almost 100 megawatts;

—on the northern rivers, more than 100 megawatts.

To put this into context, the amount of greenfield potential limited by parks and protected areas is equivalent to the total amount of new water power the Ontario Power Authority has included in the proposed expansion of our renewable supply objectives from 25% to 43%. Clearly, environmental choice must extend beyond parks and protected areas.

To our specific recommendations: First, in the definitions and interpretations section, in order to provide certainty with respect to parks on existing managed systems, it is recommended that the definitions section clarify that improvements to existing facilities and management regimes are provided for.

Second, in terms of classification of provincial parks, the description of waterway parks fails to recognize that several of these working rivers are already used for the production of renewable energy. It is recommended that waterway park objectives be modified to deal with this reality.

Third, recognition of existing management plans: The current provision speaks narrowly to the recognition of parks management plans and statements of conservation reserve. Given the 2002 introduction of water management planning for our sector, the section should be expanded to include existing water management plans and water management regimes that exist when the legislation comes into force.

Fourth, the definition of "generation of electricity": This section appropriately recognizes that the generation of electricity for water power production includes water resource management through specific references to reservoirs, impoundments and water control structures other than the generation facility. However, the application of the definition is in specific reference to prohibition of new generation. This concept—water resource management—is equally applicable to the recognition of existing facilities and regimes, and it should be reflected in the legislation.

Fifth, the exception of existing hydro-electric generation: As suggested prior, this section must be made consistent with the recognition of water resource management in the context of electricity generation. This section should relate back to the definition and stipulate that the existing generation of electricity located in a park or conservation reserve may continue and, with the approval of the minister, may be improved.

Sixth, provision for new generation: It is our view that provision should be added to provide within the body of the legislation the opportunity for new water power development, both greenfield and at existing infrastructure, within a protected area on a case-by-case basis, premised on the minister's discretion. Further, we would recommend that the decision to provide for new generation not connected to the IESO grid be modified

and expanded to provide for those commercial opportunities in northern Ontario.

The Chair: Just to let you know, you have about two and a half minutes.

Mr. Norris: I have one more.

Finally, aquatic class parks: Our industry is concerned about the proposed addition of this new class of park in the bill, particularly given the assurances we have continuously received that there would be no expansion of the existing policy framework. Our experience to date with respect to the consideration of renewable energy values in the context of parks policy has not been positive. This proposed addition within the body of the legislation is unnecessary and inappropriate based on the stated intent of the legislative process. If these additional classes are required or desired, we'd be pleased to participate in a separate process to discuss their rationale.

Thank you again for the time. I appreciate the opportunity to appear in front of you. I would be pleased to answer any questions.

The Chair: Thank you. We should have time for one question, and it would be Mr. Bisson's turn to ask it.
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Mr. Bisson: Some of what you're saying here swims against the stream, pardon the pun, of what the stated goal of the legislation is, specifically greenfield developments within the park. How do you square that off with everybody else in society who is trying to protect—

Mr. Norris: It's a good observation. The fact is that we've demonstrated that we've put parks on water-power generation existing—it would seem to me that that would speak to the fact that, site-specifically, the two values can coexist. Otherwise, why would we place parks on existing managed systems? I'm not suggesting that there be a blanket exclusion or opportunity for water power to be developed; I'm suggesting that at a local or sub-regional level, those opportunities and those values be weighed.

Mr. Bisson: You used the figure—and I just want to make sure I got it right—that there were over 100 of them now that already exist in existing parks.

Mr. Norris: There are more than 30 operating facilities within the boundaries of provincial parks. What the parks legislation does is to doughnut out those facilities as existing non-conforming uses within the boundary of a park. But if you think about the management of a hydro facility, that management regime extends beyond the facility.

Mr. Bisson: That was my question. How does this legislation hamper the ability to expand those particular facilities, if you want to increase, not necessarily the head pond, but the—

Mr. Norris: It deals with the civil infrastructure as opposed to the management regime.

Mr. Bisson: I see. Okay.

Mr. Norris: Your non-conforming use is where your cement is.

The Chair: Thank you very much for coming in today, sir.

Mr. Norris: Thank you for the time.

EARTHROOTS

The Chair: The next presentation is from Earthroots: Mr. Josh Garfinkel. Have a seat; make yourself comfortable. The protocol is pretty simple. You have 15 minutes to make your deputation. If you leave any time remaining, it will be divided among the parties for questions. Please begin by introducing yourself for the purposes of Hansard.

Mr. Josh Garfinkel: My name is Josh Garfinkel. I'm the parks and protected areas campaigner for Earthroots. Earthroots is a conservation group, a grassroots environmental group with a focus on Ontario-based issues specifically.

First off, I'd like to just say good afternoon to the Chair and to the members of the committee. I'm extremely grateful for the opportunity to speak in this forum. I'd really like to say how encouraging it is that the government has taken this very critical and progressive step of introducing new legislation for our provincial parks and protected areas in Ontario.

Earthroots has been actively involved throughout the preliminary and middle stages of Bill 11's development. We are very excited that it has been referred to the standing committee on the Legislative Assembly. We are enthused by the fact that in this new legislation, the government has committed to making ecological integrity the overriding principle for management decisions in our provincial parks and our protected areas.

With that being said, it could be very easy for the term "ecological integrity" to become vague and perhaps arbitrary in both its definitions and its connotations. To the vast majority of people who live in Ontario, ecological integrity encompasses being not only responsible stewards of the land but, most importantly, to ensure that the preservation of wildlife habitat is the primary purpose.

We are not opposed to hunting; it's just that the less than 10% of Ontario that is classified as protected should be off limits to recreational hunting. I'd like to reiterate that: It is only 10% that we're talking about. The parks and conservation reserves in Ontario are presently managed for a diverse array of objectives, striving to balance the importance of environmental protection with recreational, commercial and economic interests.

A survey conducted for Earthroots by Oraclepoll in March 2004 revealed that 88% of Ontarians strongly oppose hunting in parks, including 84% of those surveyed in northern Ontario and 66.7% of people who actually had a hunting licence in their household. Perhaps the most essential element that the survey disclosed was that wildlife and wildlife habitat was seen as the primary purpose for Ontario's parks and protected areas. If only 3.5% of Ontarians participate in sport hunting, the Ministry of Natural Resources is permitting a miniscule percentage of the population to dictate park policy, and is consequently denying the interests and principles of the majority of people in Ontario.

In turn, there is an urgent and dire responsibility to update extremely weak and lacklustre regulations in

regard to species at risk. The fact that some of our protected areas actually allow species at risk to be hunted and trapped is appalling. Recognizing that there is a species at risk and allowing it to be hunted and trapped in a protected area is not only contradictory by nature, but both of the aforementioned terms become hollow if they don't live up to the fundamental goal of a protected area, which is to preserve wildlife.

The eastern wolf is a prime example of this point. Research that Earthroots conducted showed that most of the outfitters in Ontario offering wolf hunts are catering to American hunters. Many of these businesses are located just outside of the boundaries of large protected areas, which offer prime wolf habitats. One of the perks of these expeditions is that they guarantee a wolf kill; this is a claim made on specific websites. This is not only unsustainable and cruel, but it is incongruent with the general attitude people in Ontario have towards hunting and, more specifically, towards a species as crucial to the ecosystem as the wolf.

Clearly, there is amazing potential in this province for the eco-tourism industry. The real revenue can come from eco-tourism in parks. While Americans may come to Ontario to shoot wolves, Canadians flock to Yellowstone National Park to view wolves in the wild. We must do something to ensure that the eastern wolf's habitat is preserved. While the government has made progressive preliminary measures, they need to enact stronger legislation. The fact that wolves can still be hunted and trapped in some of our protected areas is unsustainable. I have recently put out a freedom-of-information request to find out how many wolves are killed annually in this province.

Section 5 of the proposed legislation contains a succinct statement that is a reminder that the parks are dedicated to the public. It states that Ontario's parks and conservation reserves are "dedicated to the people of Ontario and visitors for their inspiration ... health, recreational enjoyment and benefit with the intention that these areas shall be managed to maintain their ecological integrity and to leave them unimpaired for future generations."

While this is a progressive concept, the government is falling short in its attempts to minimize human impacts in our protected areas. If the intended results were leaving the land unimpaired for future generations, then implementing a long-term strategy to phase out high-impact activities would be the necessary next step. Ontario's vast and vital network of protected areas must place the preservation of wildlife and wildlife habitat in the highest regard.

If essential changes are not made to Bill 11 as it currently stands, much-needed buffer zones will not be implemented around our provincial parks and conservation reserves. If protection ends at the perimeter, what is to prevent new roads from cutting into our parks and protected areas, which inevitably creates easier access to our natural resources? I'd like to cite the victory that was achieved when the government imposed a ban on hunting

and trapping wolves in and around Algonquin Park. This is a very good paradigm to look at in terms of realizing how critical the role of a buffer zone is to actually taking preservation to a more meaningful level.

One of the most stark and symbolic omissions from Bill 11 is the practice of logging in Algonquin Park. The fact that Bill 11 makes no mention of the need to phase out logging in Algonquin Park is discouraging. The reality is that over 70% of Algonquin Park is open to logging. Why even call it a park if it is so heavily logged? Within the greater Algonquin region, logging accounts for less than 2% of all employment, and that number is decreasing.

In regard to wilderness class parks, Bill 11 contains a crucial change in wording that has been used to describe this classification of parks since the 1970s. The statement previously read, "Wilderness class parks are substantial areas where forces of nature are permitted to function freely and where visitors travel by non-mechanized means." Unfortunately, Bill 11 contains a subtle but key shift in language, replacing this with, "The objective of wilderness class parks is to protect large areas where the forces of nature can exist freely and visitors travel primarily by non-motorized means." This very important rewording impacts the definition of wilderness class parks and can undermine the ideal of preserving wildlife and the ability to enjoy recreational experiences. It is pivotal for Bill 11 to go back to its previous, more sustainable definition: "where visitors travel by non-mechanized means."

There are various ecological scars that ATVs can leave on the face of the backcountry, the most evident being wildlife habitat fragmentation. Damage to vegetation, erosion, collapsed stream banks and widening trails are also problems that emerge when the landscape sees an abundance of all-terrain vehicle use. As it stands today, ATV use represents a very serious danger to Ontario's parks and the sensitive natural areas that exist throughout the province. ATVs emit more pollution per mile than the average car.

Presently, the regulations for our protected areas do not mirror the imperative, urgent need to protect wildlife habitat. To say otherwise would be a contradiction, since the vast majority of Ontario is open to sport hunting. Canada has long prided itself on being a country composed of balance, so it is more than equitable to devote a small percentage of our land base as off limits to recreational hunting. Even the 10% of Ontario that would be off limits to sport hunting seems like a far cry from the balance we value in Ontario.

Logging in Algonquin Park, Ontario's oldest provincial park, should be phased out over a specified period of time, and the fact that motorized access can go on in protected areas is something that must be amended. Public lands deserve protection and respect just like private lands.

We applaud the government for introducing new legislation for the first time in 50 years, and we hope they follow through with the promise of making ecological

integrity the overriding principle for our protected areas. Since the ideals and values and communities themselves are ever-changing, we hope this process is taken one step further and accurately reflects the opinions of people who live in Ontario.

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The Chair: Thank you very much for your deputation. We'll have time for roughly one brief question from each caucus, beginning with Mr. Oraziatti.

Mr. Oraziatti: Thank you, Mr. Garfinkel, for your presentation this afternoon. We appreciate your frankness in your presentation.

As you're aware, there have been numerous parks added to the complement of parks in Ontario over the years. I think you can appreciate the challenge and importance of updating a piece of legislation that dates back to 1954. I think you've provided a fairly balanced look at a few areas that are under review. Is there anything else you can suggest in terms of the motorized vehicle aspect that would allow us to review that prior to next week's clause-by-clause process with this bill? We're obviously working to find a balance between all those groups and organizations in the province: those that are adamantly opposed to any type of motorized vehicles in our parks, and those who rely on the use of motorized vehicles for their livelihood and are related to economic factors. Can you perhaps elaborate on that? If you have any other suggestions, I'd be happy to hear those.

Mr. Garfinkel: It's a very good question. I should make it clear that we're talking about recreational ATV use. For commercial all-terrain vehicle use, this is a different classification or it would be an exception, I suppose, from our vantage point. Out of all the issues I mentioned, it's the most crucial one in terms of impact to the environment. I think this is something that needs to be seriously thought over. This new legislation is really timely, the fact it's coming out right as summer is coming. Summer is the time when wildlife—

The Chair: Thank you, Mr. Miller?

Mr. Miller: Thank you, Josh, for your presentation. You stated you're happy that ecological integrity is the overriding principle of the bill, but you also said it's quite vague. That's probably true. Earlier we had the Ontario fur managers here, and I'm sure they would say that trapping is something that's an ecologically sustainable activity. What is your feeling about trapping in protected areas? Feel free to differentiate between various classes.

Mr. Garfinkel: From my organization's standpoint, trapping should not go on in protected areas. I understand the notion of tradition, and I understand the association of hunting and trapping with tradition. But what was true even 50 years ago, when this parks legislation was introduced, does not necessarily translate to being sustainable in the present. That, therefore, does not make sense in the present day.

The Chair: Mr. Bisson?

Mr. Bisson: I'll just follow up on that a little bit in regard to how this affects First Nations. We've talked about the banning of motorized vehicles in wilderness

parks, and I think most people don't have a problem with that, per se, on the surface, but when it comes to, for example, a community like Peawanuck, which had a park basically developed around them without their consent, how do you deal with that? Should there be a non-derogation clause to allow them to have access?

Mr. Garfinkel: I believe there should be a non-derogation clause.

Mr. Bisson: The other thing: I'm curious as to your thoughts on the previous presenter from the Ontario Waterpower Association, who talked about the coexisting of hydro dams that are currently in parks. How do you feel about that, the suggestion that we can develop more within a provincial park and still coexist?

Mr. Garfinkel: I don't think there is room for coexistence in that case. I don't feel there's any room for—

Mr. Bisson: He raised one point—that's why I went out to talk to him, because I was wondering how they deal with it. Currently, there are—I forget what they're called—water management plans, which I think is what they're called, that they have to have to run a power dam. One of the effects of this legislation is to null and void the water management plans. I'm just wondering, should we be including water management plans in the legislation on currently existing facilities? Because it would be kind of nuts to get rid of them, I would think.

Mr. Garfinkel: On currently existing—

Mr. Bisson: Yes, the current ones that are there now, because you have to have a water management plan to run the—do you think we should—

The Chair: I'll have to say that you can answer the question very briefly, but that's it.

Mr. Garfinkel: I can't just instantaneously come up with an answer. It's something I'd have to think more about.

The Chair: Okay. Thank you very much for having come in and for making your very thoughtful deputation before us today.

ATTAWAPISKAT FIRST NATION

The Chair: The Attawapiskat First Nation, Suzanne Barnes. Welcome this afternoon. You have been following things, so you know you've got 15 minutes for your deputation. If you leave any time, it will be divided among the parties for questions. Please begin by introducing yourself for Hansard and then proceed.

Ms. Suzanne Barnes: Good afternoon. I'm Suzanne Barnes. I'm director of lands and resources for the Attawapiskat First Nation. First of all, I'd like to thank you for agreeing to see me this afternoon. I appreciate the opportunity to share with you some thoughts on this piece of legislation. However, I'd like to point out that just because I'm here today representing Attawapiskat First Nation does not mean this committee has consulted Attawapiskat First Nation or any other First Nation. We are quite disappointed that the committee chose not to

travel, as it did when there were hearings on the First Nations Resource Revenue Sharing Act.

The Ontario Parks legislation has significant implications for aboriginal rights and title. Do you realize that just a ticket from Attawapiskat to Timmins is over \$1,200? I fail to understand how the committee feels this has been a fair process or that First Nations have been adequately consulted. In fact, this committee and the government in general should be ashamed of themselves for the lack of consultation with First Nations. This lack of consultation can only lead to more situations like Caledonia and Big Trout Lake.

I can share with you that, although I do not speak for the Peawanuk First Nation, they do not support Bill 11 either in its current state. I also urge the committee to fully consider and implement the work submitted by Nishnawbe Aski Nation. Grand Chief Stan Beardy is speaking in a few minutes.

First Nations use a consensus approach to government, not a parliamentary or adversarial one. While consensus may seem to take longer, I don't think it does; it just changes where you spend your time—building consensus or defending your actions. In my opinion, building consensus makes better, stronger decisions. Regardless, proper consultation is part of either process.

The courts have written extensively about consultation and accommodation, but they have also discussed the reasons why it is so necessary. In *Mikisew Cree First Nation versus Canada* [2005] Justice Binnie of the Supreme Court of Canada wrote:

“The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions. The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding. The multitude of smaller grievances created by the indifference of some government officials to aboriginal people's concerns, and the lack of respect inherent in that indifference has been as destructive of the process of reconciliation as some of the larger and more explosive controversies.”

In keeping with the spirit of the *Mikisew* decision, we invite you to fulfill your duty to consult with and accommodate our rights; otherwise, we may have no choice but to seek relief through the courts. We do not want to take this drastic step, however. We agree with the Supreme Court of Canada's words in *Delgamuukw* that negotiation is preferable to litigation:

“Ultimately, it is through negotiated settlements, with good faith and give and take on all sides, reinforced by the judgments of this court ... that we will achieve ... a basic purpose of s. 35(1) ... the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the crown.”

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In light of section 35 of the Constitution Act and the above case law, it is our position that Bill 11 should be withdrawn until proper consultation is conducted with all First Nations, including ours.

Proper consultation with First Nations is not a letter in the mail or an e-mail or a phone call or an announcement on a web page. Proper consultation consists of respect, visits to First Nation communities, conversations with councils, community members and elders, reflection of those conversations and more conversations until consensus is reached—not a quick process, but a very worthwhile and rewarding process nonetheless.

In fact, Nishnawbe Aski Nation proposed a consultation process which was disregarded by this government. This is truly unfortunate and only allows for more distrust to grow.

Ontario has had the same parks act for many years. What will a few more months hurt to allow for proper consultation? This new parks act is the government's opportunity to show that it respects First Nations and that it wants to do right by them. We are all stronger when we work together. I urge you, I implore you, to take the time to do this right the first time: Take the time to properly consult with First Nations. Make a stronger parks act, one that we can all be proud of, not something that will not stand up to scrutiny or to the courts.

For the record, I'd also like to read the letter that my chief, Chief Mike Carpenter, has sent to the standing committee and Minister Ramsay. We're all so busy. It's just a few pages, and I thought it worth reading to you.

“Dear members of the standing committee and Minister Ramsay:

“We are writing you to set out our position on consultation and accommodation with respect to Bill 11, the new Ontario parks and conservation reserve act ('OPCRA').

“As you are aware, Attawapiskat First Nation asserts aboriginal rights and title in its traditional territory. Our rights and title will be seriously impacted and infringed by the OPCRA. We have hunted, fished, trapped and harvested the resources in our territory since time immemorial and continue to do so. Many of our citizens depend on these rights in order to survive. While the OPCRA will allow Ontario to expand or create new provincial parks or conservation reserves in our traditional territory, there is nothing in the new act which recognizes our rights or which requires consultation and accommodation for new and existing parks, or even allows for co-management.

“As well, consultation on the new act has been virtually non-existent, poorly communicated and set within a very limited time frame. We understand the legislative committee will only hold hearings in Toronto, with video conferencing available only in centres that are still remote from our location in Attawapiskat.” For those of you who don't realize it, Attawapiskat is just inland from the James Bay coast. I know that Mr. Bisson knows where it is, but it's significantly north of Timmins and has fly-in access only. “We are disappointed that the committee has chosen not to attend our community (or any community outside of Toronto) since this bill has as many implications on our aboriginal rights and title as did the First Nations Resource Revenue Sharing Act.

"We also write to remind you of your legal obligations, as set out in the Constitution and by the courts. Whenever the crown (federal and provincial) passes legislation or makes decisions that impact or potentially impact our rights and title, consultation and accommodation must occur in order to minimize or avoid the infringement of our rights. Furthermore, the crown must conduct consultation and accommodation in a manner that is consistent with its fiduciary relationship to us and with the honour of the crown before the infringement occurs. See *R. v. Badger* (1996) ... and *R. v. Sparrow* (1990).

"After consultation and accommodation, we expect that the OPCRA will include provisions for consideration of our aboriginal rights and title, otherwise the OPCRA will infringe section 35 of the Constitution Act, 1982. The Supreme Court of Canada stated in *R. v. Adams* (1996):

"In the light of the Crown's unique fiduciary obligations towards aboriginal peoples, Parliament may not simply adopt an unstructured discretionary administrative regime which risks infringing aboriginal rights in a substantial number of applications in the absence of some explicit guidance. If a statute confers an administrative discretion which may carry significant consequence for the exercise of an aboriginal right, the statute or its delegate regulations must outline specific criteria for the granting or refusal of that discretion which seeks to accommodate the existence of aboriginal rights. In the absence of such specific guidance, the statute will fail to provide representatives of the crown with sufficient directives to fulfill their fiduciary duties, and the statute will be found to represent an infringement of aboriginal rights under the Sparrow test."

"With respect to Bill 11, your duty to consult with and accommodate us is at the 'highest significance' end of the spectrum contemplated by the Supreme Court of Canada in the recent *Haida* decision [2004]:

"At the other end of the spectrum, i.e. cases where a strong prima facie case for the claim is established, the right and potential infringement is of high significance to the aboriginal peoples, and the risk of non-compensable damages is high. In such cases, deep consultation aimed at finding a satisfactory interim solution may be required."

"In *Delgamuukw* [1997], the court considered the duty to consult and accommodate in the context of established claims. The court said in that case:

"The nature and scope of the duty of consultation will vary with the circumstances. In occasional cases, when the breach is less serious or relatively minor, it will be no more than a duty to discuss important decisions that will be taken with respect to lands pursuant to aboriginal title. Of course, even in these rare cases where the minimum acceptable standard is consultation, this consultation must be in good faith, and with the intention of substantially addressing the concerns of the aboriginal people whose lands are at issue. In most cases, it would be significantly deeper than mere consultation. Some cases

may even require the full consent of an aboriginal nation, particularly when provinces enact hunting and fishing regulations in relation to aboriginal lands."

The Chair: Just to advise you, you have about two minutes.

Ms. Barnes: "It is our view that the hunting and fishing restrictions that may be imposed through park or conservation reserve creation in our territory will infringe our aboriginal rights and title.

"The courts have written extensively about consultation and accommodation, but they have also discussed the reasons why it is so necessary," which I have already reviewed with you. I would just repeat that "In light of section 35 of the Constitution Act and the above case law, it is our position that Bill 11 should be withdrawn until proper consultation is conducted with all First Nations, including ours."

The Chair: That pretty much concludes the time we have for your deputation today. I want to thank you very much for coming in.

NASTAWGAN NETWORK

The Chair: Our next deputation will be from the Nastawgan Network: Edwin J. MacPherson. Welcome. I think you have picked up the general procedure. You have 15 minutes for your deputation. If you leave any time, it will be divided among the parties for questions. Please begin by introducing yourself for the purposes of Hansard, and then continue.

Mr. Ed MacPherson: First of all, thank you for the opportunity to attend before the standing committee as you review Bill 11. I am Ed MacPherson. My academic qualifications include a PhD in chemistry. Professionally, I worked here in the province as an industrial scientist and director of research and development with a major corporation. But I'm retired and would presently describe myself as a wilderness canoeist. I advocate for the preservation of canoe routes, parks and wilderness. I'm a founding member of the Nastawgan Network, a group of concerned individuals who have come together to promote the preservation of the Nastawgan, the Ojibway name for ways or routes for travel through the land.

Before the advent of roads and railways, interconnected waterways provided the principal routes for travel and communication over much of Ontario. These ancient canoe routes, or Nastawgan, have become our modern-day canoe routes, the largest intact collection—

The Chair: Sir, could you please bend the microphone down a little bit closer to you.

Mr. MacPherson: Sorry about that.

The Chair: Thank you.

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Mr. MacPherson: The largest intact collection is in the Temagami area, where we are active as advocates. These routes are threatened by the pressures of our modern-day society.

Temagami, as some of you know, is an area located about 100 kilometres north of Lake Nipissing. Its numer-

ous lakes, wilderness waterways and large forests are home to many lodges and camps, including Keewaydin, the oldest canoe camp in the world, operating since 1893. Recreation-related industry plays a vital role in the area economy.

Forestry and mining have also had a long history in Temagami. The area is rich in natural resources. These industries have been the mainstay of the local economy and have strong ties to the community.

The variety of activities and stakeholders in Temagami has inevitably led to conflict and disagreement regarding land use.

The Temagami area, as we know it, encompasses about 700,000 hectares, including five backcountry provincial parks and eight adjacent, physically connected conservation reserves. Protected areas cover about one quarter of the region, with over half a million hectares being unregulated crown land.

Temagami contains more than 3,500 kilometres of historic canoe routes. To put that into perspective, Algonquin Park, the crown jewel of Ontario parks, contains 1,600 kilometres.

The region contains numerous sites of aboriginal significance such as Chee-bay-jing—we call it Maple Mountain—and the Spirit Rock at Chee-skong-abikong. There is evidence of use, settlement and travel throughout this area for an estimated 6,000 years, with pictographs, vision pits, caches and burial sites scattered throughout the region, and the largest collection of documented archaeological sites in northern Ontario.

Temagami is the largest wilderness area in close proximity to our urban population here in southern Ontario. The region contains the largest remaining tracts of old-growth pine forests in eastern North America. Three of the 10 highest points in Ontario, including Ishpatina Ridge, the highest point, are located in Temagami.

Events to date have divided Temagami into a fragmented assortment of provincial parks, conservation reserves and large interspersed zones of resource extraction activities. The Nastawgan, which cross all of these boundaries, are managed by three separate MNR district offices. They receive sporadic recognition and are not viewed as a collective value, either from a heritage or a recreational perspective.

The Temagami area is valued by many competing recreational and industrial interests, and all have valid concerns for land use planning. Some of these interests are compatible while others are not, and there have been ongoing conflicts among the various interests. For example, the Red Squirrel Road blockades during the mid-1980s were inspired by these conflicts. The Temagami integrated planning initiative brought forward by Minister Ramsay is an attempt to rectify these problems, and this ongoing process seems to be inadvertently influencing the passage of Bill 11.

I would like to commend the provincial government for undertaking this process to update and modernize the provincial parks and protected areas legislation for the

benefit of all present and future residents of Ontario. However, as someone who has enjoyed Ontario parks for over 50 years, I am concerned that some interest groups are attempting to use this legislative process as a venue for increased access and exploitation of Ontario's protected areas.

I would like to state that we support Bill 11 and the changes being recommended by the Wildlands League and the Sierra Legal Defence Fund, as presented to Minister Ramsay following the first and second readings and presented here to this committee earlier today. I hope that the standing committee will be able to agree with those modest changes following their review.

As Bill 11 began to move through the legislative process, it became apparent that this important piece of public legislation was being derailed by the actions of a strong lobby group from the Elk Lake area supported by the Ontario Federation of Anglers and Hunters, the Ontario Federation of All Terrain Vehicle Clubs and, to some extent, by the Ontario Federation of Snowmobile Clubs. In addition, the mining and forestry interests, who have now been alerted by this lobby group, perceive some small loss of their assumed rights to extract resources from crown lands and have recently begun to add their opposition to Bill 11.

I believe this action to influence the outcome started as a result of the Temagami integrated planning initiative that is currently under way by the MNR and has been progressing, first through a series of open houses in various northern communities, including Elk Lake, and more recently through a series of focus group meetings held in New Liskeard, Temagami and Toronto.

The community of Elk Lake has been using the Lady Evelyn-Smoothwater wilderness park, the largest of the Temagami area parks and a part of the study area, as their private domain to fish, ATV, motorboat, snowmobile and perhaps hunt in since the park was established in 1983. The MNR rules for a wilderness park are pretty clear: no hunting, no snowmobiling, no ATVs, and motorized boating may be allowed in certain zones.

It is now 23 years after this wilderness park was established. The people of Elk Lake and surrounding area have had 23 years to adjust their activities to conform to the rules for a wilderness park. This has not happened, and the community, supported by the motorized access lobby groups, is now calling these uses their traditional uses.

This lack of enforcement of the rules for this wilderness class park has continued on now through several changes of provincial government and several governing parties. How much longer will it take to enforce the motorized access rules for this wilderness park? How much longer will it take to protect this park and others like it in the province through the legislation proposed in Bill 11?

In the meantime, the old logging trails through the Lady Evelyn-Smoothwater park are being used by all-terrain vehicles to access sensitive areas within the park, sometimes destroying portages in the process, while

snowmobiles are accessing every lake within the park, allowing them to be fished out to the point of depletion. These are not sustainable activities for a wilderness area, and they are destroying the ecological integrity of this park.

MNR staff will likely allow motorized travel to continue into Lady Evelyn-Smoothwater through the access zone. At that point, the motorized crowd needs to dismount from their machines, turn them off and travel through the park the same way the rest of us do: by walking or by canoe, just like their fathers and their grandfathers did before these machines became generally available. That is the traditional way and the ecologically sustainable way.

They need to understand that they are not being excluded from using this park. More than 90% of Ontario's crown land is available for unrestricted motorized access and hunting. Only 4% of the provincial population actually engages in these activities, yet these motorized groups want unrestricted access to our parks and protected areas, such as the Temagami area.

The Ontario Federation of Anglers and Hunters, in its position paper on Temagami, available on their website, states that for Lady Evelyn-Smoothwater park, "This area should be shared by the people of Ontario for recreational enjoyment and economic benefit, this is not consistent with non-paying wilderness canoeists who 'prefer to have minimal contact with other users;' maximizing the potential of this area will require a sharing mentality not an exclusionary one."

The committee members must know that wilderness canoeists do pay for the privilege of travelling in the various operating wilderness and waterway class parks. The motorized lobby groups, with access to over 90% of the crown lands in the province, need to develop a sharing mentality by recognizing that other citizens in the province need places that are kept free of hunting, snowmobiling, motor-boating and ATV activities and where the forces of nature can operate freely. Protecting 10% of crown lands for the use of the rest of the population that does not engage in hunting, fishing and motorized activities is surely not too much to ask of our elected representatives.

The motorized lobby groups are telling us that many of their members are disabled and can only access the bush sitting on a machine. I'm 62, and I canoe my way into these and other wilderness parks in the province. So do a lot of other people who are much older than I am, preferring physical activity over the inactivity of sitting on a machine. I'm sure that a few of their members are disabled, as is true in the general population. I'm very sorry for them, but I don't believe the physical disability of a few members in their cohort to be a legitimate reason for allowing unrestricted motorized travel in wilderness class parks, as these groups advocate. You may be aware that much money has been spent to ensure that disabled people have fair and as equal access as possible to a broad range of Ontario park classes in various regions throughout the province.

Bill 11, when passed into legislation, will cover less than 10% of Ontario's land base, yet these groups are advocating for more motorized access. The ecological integrity of parks must be protected, and strong legislation is required to ensure that happens.

There are instances in the Temagami area parks and other parks throughout the province where the border of the park becomes the line for a clear-cut forest operation, the edge of a tailings mountain or a settling pond for leachate, for example.

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A few years ago we found, to our dismay, that the MNR was going to allow a large clear-cut, designated as block 30 and presented in the preliminary forest operation plan for the years 2004-09, in what we call the Spirit Forest area of Temagami. The details of that are written up on a website called ottertooth.com. The western border of block 30 was also the border for Obabika River provincial park. A few hundred metres inside the park border at this location is a well-known native spiritual site called the place of the big rock, or Spirit Rock, where natives go to pray and commune with their ancestors. The fear was that adjacent logging operations would topple the ancient pillar of rock, while a clear-cut in this area would open up the forest, allowing the winds to knock down much of the old-growth pine that remains around the north end of Obabika Lake. The presence of the old-growth pine, perhaps the largest stand remaining in the province, was one of the reasons for protecting the area in the first place. After much acrimony, the MNR was convinced that block 30 should not be cut. They replaced it with another block in a less sensitive area further to the south.

The Chair: Just to let you know, you have about two minutes.

Mr. MacPherson: There are many examples of mining activities within the province which have encroached on protected or soon-to-be-protected areas. These conflicts are well documented. I won't talk about the Chiniguchi River one, but I would close by saying that extraction activities—logging and mining—immediately adjacent to park boundaries need to be scrutinized by the operators prior to commencement to ensure that adjacent parklands are protected from adverse effects. I would like you to consider adding a good-neighbour clause to Bill 11 to enshrine it as a legal requirement in the legislation.

I would like to thank the committee for their patience and for the opportunity to bring some of our concerns to your attention.

The Chair: Thank you for your deputation. We have time for one brief question from Mr. Miller.

Mr. Miller: Thank you very much for your presentation. I'll just briefly say that I'm familiar with the area you're mainly talking about. Last summer I had the pleasure of canoeing through most of the area, climbing Maple Mountain and walking the old-growth pine trails.

Mr. Bisson: Did you do it on your ATV?

Mr. Miller: No. You'll be happy to know I did it by canoe. I certainly appreciate the beauty of the area, and I appreciate your concerns, which you have very clearly defined.

The Chair: Thank you very much for coming in today.

NISHNAWBE ASKI NATION

The Chair: I'd now like to call Mr. Stan Beardy of the Nishnawbe Aski Nation.

Mr. Bisson: The Grand Chief.

The Chair: The Grand Chief. Chief, welcome this afternoon. A pleasure to have you here.

Grand Chief Stan Beardy: Thank you.

Mr. Bisson: He's the Grand Chief.

The Chair: Sorry. Grand Chief, welcome this afternoon. If you've been here a little while, you know that you have 15 minutes to make your deputation before us this afternoon. If you leave any time, we'll divide it among the different parties to have them ask you questions. I think they'd all like to ask you at least one question. So please introduce yourself for the purposes of Hansard, and then proceed.

Grand Chief Beardy: Meegwetch. My name is Stan Beardy, Grand Chief, Nishnawbe Aski Nation. Nishnawbe Aski Nation covers 50 First Nations in northern Ontario. We cover two thirds of Ontario's land mass: 210,000 square miles. How we came to be where we are with the designation is that we signed a treaty with the crown 100 years ago, and that's the land we agree to share. With that, I'd like to thank the committee for providing me this opportunity to address the Nishnawbe Aski concerns on Bill 11.

Before I get into specific recommendations for changes to the bill, I would like to mention that we are highly concerned that this government has refused to consult with First Nations on this bill. Nishnawbe Aski submitted a consultation proposal to MNR in January of this year, and we did not receive a reply to our request until April 18. We were told that as the bill was going to second reading this spring, our request for consultation was being turned down. In fact, April 18 was the same day that Bill 11 was going into second reading. Due to this lack of consultation, until such time as our communities have been engaged by the province in meaningful consultation, we have relayed to Ontario MNR that it is our position that Bill 11 is neither applicable nor appropriate to Nishnawbe-Aski territory. In consideration of the aforementioned issue, our recommended changes for the content of Bill 11 are made without prejudice to our current position or consultation and accommodation.

As we have only been able to access a copy of the first reading of the bill, our recommended changes will be based upon the wording of this initial document. To alleviate our concerns over Bill 11—the lack of consultation issue aside—we require the following changes. I'll just go through the changes. I've distributed written

handouts. The recommended changes are highlighted in red.

Section 1 requires the insertion of “and the exercise of aboriginal treaty rights” at the end.

Subsections 2(1) and 2(2) require a fifth and fourth objective, respectively. This objective is, “To respect, preserve and protect the exercise of treaty rights and of traditional aboriginal resource harvesting activities.”

Section 3 requires the addition of three additional paragraphs. These are:

“3. Any aboriginal community in whose traditional territory a park or conservation reserve is located or is to be located shall be adequately consulted and accommodated.”

“4. Traditional ecological knowledge of local aboriginal people shall be incorporated into the planning and management of provincial parks and conservation reserves.

“5. The minister shall seek to include representatives of any aboriginal community in whose traditional territory a park or conservation reserve is located in the management planning for the park or conservation reserve.”

Section 4 requires two additional subsections, the first entitled “Treaty and aboriginal rights.” It shall say:

“(4) Nothing in this act shall abrogate, derogate or be interpreted to abrogate or derogate from any treaty or aboriginal right of any aboriginal community or any member of the aboriginal community.”

The second addition, entitled, “Aboriginal dispute resolution,” shall read:

“(5) Any dispute with respect to aboriginal or treaty rights provision of this agreement shall be referred to a dispute resolution process to be agreed upon by the minister and the affected First Nation community. All First Nation costs of dispute resolution shall be paid by the minister.”

Section 6 requires a subsection 6(1), which would say:

“(1) Despite 6, existing provincial parks and conservation reserves in existence or planned or in the process of being developed in a traditional territory of an aboriginal community shall be subject to immediate adequate consultation and accommodation with the aboriginal community and no further activity of any kind regarding the establishment of such a provincial park or conservation reserve shall be taken prior to the required consultation and accommodation of the aboriginal community.”

Section 7 requires the addition of the seventh class of park, this being “Aboriginal cultural heritage class parks.” Under the objective of these parks there need to be three subsections saying:

“(8) If a park is to be classified as a cultural heritage park and the relevant culture is aboriginal, the consent of the relevant aboriginal group or groups is required.

“(9) If aboriginal consent is given pursuant to (8), the aboriginal community in whose traditional territory a park or conservation reserve is located shall take the lead in the development of the park or conservation reserve, including the collection of traditional ecological data, the

development of policies and regulations for the park and the management of the park or conservation reserve.

“(10) Aboriginal groups may nominate parks for classification as aboriginal cultural heritage class parks.”
1720

Section 8 requires the addition of a separate subsection entitled “First Nations participation and approval.” This subsection shall read:

“(6) Subsections 8(1-5) require meaningful negotiations with, and the approval of, affected First Nation communities. The minister is responsible for all costs of these negotiations.”

Subsection 9(1) shall be reworded to say:

“(1) The minister shall ensure that the ministry prepare a separate management plan for each provincial park and conservation reserve to ensure the objectives for provincial parks and conservation reserves set out herein are met.”

In addition, clause (3)(a) and subsections (4) and (5) shall be reworded to say “Approved by the minister and local First Nation communities.”

Subsection (5) also requires this to be added to the end: “Traditional ecological knowledge ... will form a key database for the development of the plan. First Nations retain all intellectual property rights to their TEK and will be financially reimbursed by the minister for the use of their TEK. Reimbursement must be an amount agreed to by both minister and First Nations. Management plans will not commence until an agreement regarding TEK is reached. The minister is responsible for all negotiation and reimbursement costs.”

Subsection (9) requires this statement to be added to the end: “The planning manual shall be in accord with this act including all provisions related to treaty and aboriginal rights and processes.”

Subsection (10) requires rewording that begins with “For the purpose of this section, and subject to treaty and aboriginal rights and subject to 6(1) herein.”

Subsection 10(2) shall end with “and an assessment of First Nation issues and how these are being addressed by park and conservation reserve objectives.”

Subsection 11(1) shall be reworded so that it starts with, “The minister and local First Nation communities are equally responsible....”

Subsection 11(2) shall be reworded to say “the minister, and with local First Nation communities may....”

Section 12 requires an additional subsection entitled “Exemption—traditional aboriginal activities.” This subsection shall say:

“(3) Notwithstanding subsection (2), nothing in this act shall be interpreted to prohibit the exercise of treaty rights or traditional aboriginal resource harvesting activities or activities ancillary thereto, impose a permit fee in relation to the exercise of such activities or ancillary activities, or restrict or regulate the exercise of such activities.”

Section 13 requires the addition of subsections (4) and (5). Subsection (4) will say:

“(4) Aboriginal communities whose traditional territory is affected by the arrangements noted in (3) will be given the first right of refusal at reasonable appraised value to acquire such commercial interests or other interests when they become available and the minister shall make financial resources available to those aboriginal communities to enable them to acquire such commercial interests or other interests.”

Subsection (5), which will be entitled “Aboriginal interests,” shall say:

“(5) In entering any commercial agreement in relation to the use and occupation of land in provincial parks and conservation reserves, the first priority shall be to offer such opportunities to any aboriginal community in whose traditional territory a park or conservation reserve is located, and to any agency or person nominated by such an aboriginal community.”

Section 14 requires the addition of subsection (3). This subsection, which will be entitled “Exception—traditional aboriginal hunting,” will say:

“(3) Notwithstanding subsection (1), nothing in this act shall be interpreted to prohibit the exercise of traditional aboriginal hunting, impose a permit fee in relation to such hunting, or, unless for the purpose of conservation or public safety....”

Section 15 requires 15(1) to end with “except by First Nations exercising their aboriginal and treaty rights and/or in pursuit of economic opportunities for local First Nation communities.”

Section 16(2) shall end with “or by First Nation members.”

Sections 19(1) and 19(2) shall begin with “Subject to the policies of the ministry and First Nations and the approval of the minister and local First Nation communities.”

In addition, section 19 will have an additional subsection added. This subsection, entitled “First Nations exemption” will say, “(6) First Nations will have unfettered access to all existing roads, trails and corridors in provincial parks and conservation areas. Closure of roads, trails and corridors require the approval of local First Nation communities.”

Section 20(1)2 shall say, “Lowest cost is not the sole or overriding justification other than when it is applicable to local First Nation communities seeking to generate electricity and/or the cost of this electricity.”

Section 21(1) will say “no person, other than a member of a First Nation community, shall....”

Section 23(1) will say, “The Minister, with the consent of local First Nation communities....”

Section 26(2) requires a subsection which will say, “(2)(a) The minister shall pay annually 50% of all amounts held in separate account to aboriginal communities in whose traditional territory a park or conservation reserve is located or is to be located.”

Section 26(3) will then have the phrase “that the remaining 50% of the amounts held in the separate account” replace the words “that money”.

Section 27(1) will say “with the approval of the Lieutenant Governor in Council and local First Nation communities.”

Section 27(2) will say, “control of the municipality and local First Nation Communities.”

The Chair: Grand Chief, just to let you know, you’ve got about two minutes left.

Grand Chief Beardy: Okay. I still have four pages to go. I respect the time frame. It’s unfortunate. I am a treaty partner of Ontario.

The Chair: Did you want to have any of the time available for—

Mr. Miller: Unanimous consent for time to finish his presentation.

Mr. Bisson: You just got extra time

The Chair: Okay. Go ahead.

Grand Chief Beardy: Thank you very much.

Section 21 will say “no person, other than a member of a First Nation shall...”

Section 23(1) will say, “The Minister, with the consent of local First Nation communities...”

Section 26(2) requires a subsection which will say—I read that already, sorry.

Section 28 will say, “The minister shall provide educational grants to students who work in provincial parks or conservation reserves. Priority for work and grants shall be given to students from local First Nation communities.”

Section 30(4) shall say, “The minister, subject to meaningful consultation with the affected municipality and local First Nation communities, close to travel any road allowance in a provincial park or conservation reserve one month after giving notice of the proposed closure in accordance with subsection (5). The minister is responsible for all consultation costs.”

Section 31(1) after the word “may” will say “subject to meaningful consultation with, and approval of local First Nation communities...”

In addition, section 31(2) will begin with “No non-aboriginal person”.

Section 33 will have a third subsection entitled “Aboriginal Interests” added to it. This subsection will read: “(3) In entering any agreement for the development or operation of facilities or the provision of services in respect of a provincial park or conservation reserve, the first priority shall be to offer such opportunities to any aboriginal community in whose traditional territory a park or conservation reserve is located, and to any agency or person nominated by such an aboriginal community.”

1730

Section 34(1) requires the statement, “First Nation property is exempt from this section. Any First Nation property that has been damaged, perished, sold or given away by the crown will be replaced by the crown with items of equal or greater value. First Nations will be reimbursed for loss of use of items until items are replaced,” to be added to the end.

Section 38(2) requires the statement, “First Nations cabins and similar structures are deemed to be dwellings,” to be added to the end.

Section 41 requires a 16th subsection entitled “First Nation exemption.” This subsection shall read: “(16) First Nations buildings, places and things are exempt from the conditions of this act. All seized things, once determined they belong to First Nations, will be immediately returned to the rightful owner. The province will reimburse First Nations for any and all economic loss due to misplacement, deterioration and/or temporary loss of use of seized items.”

Section 52 requires the addition of a fourth subsection entitled “Limitations, traditional aboriginal activities.” This subsection shall read, “(4) No regulation passed under the authority of this act shall prohibit the exercise of traditional aboriginal resource harvesting activities or activities ancillary thereto, impose a permit fee in relation to the exercise of such activities or ancillary activities, or restrict or regulate the exercise of such activities or ancillary activities.”

Subsection 60(9)12 shall read, “The following activities shall not be carried out on lands that are part of the park except by First Nations exercising their aboriginal and treaty rights and/or in pursuit of economic opportunities for local First Nation communities.”

Section 31 shall end with “prohibited except by First Nations exercising their aboriginal and treaty rights and/or in pursuit of economic opportunities for local First Nations communities.”

That’s my presentation. Again, thank you for giving me the time to go through my presentation.

The Chair: Grand Chief, thank you for coming to see us. That’s a formidable amount of reading.

Mr. Bisson: Just to make a quick comment, and he doesn’t have to respond, just so people understand, the content of all this basically is what was always the understanding of First Nations when it comes to sharing. I take it that’s what you’re saying here.

Grand Chief Beardy: Yes, that’s what we’re saying. We want to work with the government to come up with a policy that meets all our needs.

The Chair: This now forms part of the committee’s record. We thank you very much for your time and for coming down to be with us today.

JOHN BIRNBAUM

The Chair: Our next presentation is Natasha Cuddy. Is Natasha Cuddy here?

Mr. John Birnbaum: Mr. Chair, I’m not Natasha Cuddy, but she’s asked me to present on her behalf.

The Chair: Natasha Cuddy is listed as an individual presenter. This would require unanimous consent of the committee. Is it the unanimous will of the committee that the gentleman be permitted to present in place of Natasha Cuddy?

Interjections.

The Chair: Okay. Please sit down and join us. You have 10 minutes to make your deputation on behalf of Ms. Cuddy. Please begin by introducing yourself for the purposes of Hansard. If you leave any time, I'll divide it among the parties for questioning, so go right ahead.

Mr. Birnbaum: You're very kind. Thank you. My name is John Birnbaum. I'm a resident and cottager in the township of Georgian Bay, as is Dr. Cuddy. She's unavailable to come today and I am going to share some thoughts from her, as well as some of my own. She apologizes for being unable to be here. I am not a doctor of zoology, so I'm speaking as a layman.

This involves threats to the local Massasauga rattlesnake in our communities that Dr. Cuddy involved herself in.

Mr. Bisson: I hate snakes.

Mr. Birnbaum: Apparently, the bill does not, so perhaps this might be germane.

Mr. Bisson: Just thought I'd let you know.

Mr. Birnbaum: Thank you. I didn't bring any exhibits.

We're hoping that this bill might be amended in order to extend protection to endangered and threatened species in parks, conservation areas and areas immediately adjacent. Your bill states the objective: "To permanently protect representative ecosystems, biodiversity and provincially significant elements of Ontario's natural and cultural heritage and to manage these areas to ensure that ecological integrity is maintained." It's the latter statement that I will speak to.

We're suggesting that the act, as amended, does not offer adequate or specific protection for park species like the Massasauga rattlesnake that travel out of the parks and conservation areas temporarily to hibernate or mate and then return. We believe that language should be added to the park management plan provisions to mandate the generation, for each plan revision, of a list of park species that are known to leave the park temporarily and return each year, the identification of municipal, federal or private lands that are used by the species while off-site, and the sharing of that information, on a proactive basis, with the appropriate authorities for use in their planning processes—like severance or committee of adjustment applications—and with the affected public, wherever possible. We suggest that these changes would mandate park personnel to act as advocates for the species while they are temporarily offsite and direct the appropriate park officials to assure themselves that all measures are being taken by municipal and other officials and the public to safeguard the species until they can return to the park or conservation reserves.

Just to truncate my comments on Dr. Cuddy's behalf, the difficulty is that individuals or others, who wish to involve themselves in, for example, municipal planning processes and to identify, as she did, the presence of Massasauga rattlesnakes on the affected property under discussion, are handicapped, because the officials say, "We have no information," or they say, "We have information at the district level which was to be shared at

the time of severance," but we know factually that that is not the case. So all of these officials are passing the buck, so to speak, with regard to intervention on behalf of the species, and we believe that there may be an opportunity, subject to your direction that there's another act that would be more relevant; that it's appropriate, if the park officials are presently advocates for the snakes while they're within their territory, that they follow the snakes or other species—and we know they do, out of research needs—and be available for those processes. In this case, we had federal park wardens and MNR officials who were not anxious to come and either ascertain the presence of the snakes or to testify with regard to how the development under question would affect the snakes. Consequently, Dr. Cuddy and others in her situation are handicapped because there is no one to verify her professional yet private observations.

Those are the comments we want to leave with you. I'm happy to answer any questions in the time remaining to you before you're off to a vote.

Mr. Bisson: I just want you to know that I don't like snakes.

The Chair: Thank you. You actually have the opportunity to ask the leadoff question. Was that it?

Mr. Bisson: I could tell you the story of how I punched a python in the nose once.

The Chair: Only if it's relevant to Bill 11.

Mr. Bisson: I was somewhere in Asia. That's all I'll say.

The Chair: As Asia's a little beyond the scope of Bill 11, we'll pass the floor to Mr. Orazietti. Any questions?
1740

Mr. Orazietti: Thank you for being here today to make the presentation.

The Chair: Mr. Birnbaum, that concludes your time. Thank you very much for having come in on behalf of Ms. Cuddy and for having made your deputation this afternoon.

COMMITTEE REPORT

The Chair: As we've got some time just before the vote, there are two very brief items of business for the committee before we adjourn. One is a draft committee report, pursuant to standing order 109(b). Standing order 109(b) delineates which standing committees deal with which ministries. In this case, it involves the addition of the newly created Ministry of Small Business and Entrepreneurship to the standing committee on general government.

Mr. Bisson: I'm just a little bit perplexed here. What happens to all of the other committee—for example, finance normally goes to the standing committee on finance and economic affairs. Why is it here?

The Clerk of the Committee (Ms. Tonia Granum): General government is one of the policy field committees, so that's where all the legislation goes. Finance is not listed as a policy field committee.

Mr. Bisson: So this doesn't affect the other committees. This deals with the newly created—

The Clerk of the Committee: The newly created one, which used to be under economic development and trade, so that's why it's staying with general government.

Mr. Bisson: Okay, got you.

The Chair: Further questions and comments? Shall the change be adopted?

Mr. Bisson: No.

The Chair: Gilles, are we going to have a vote on this?
Interjection.

The Chair: All right, a voice vote. Carried? Carried.

Shall I present the report to the House? Okay. Thank you.

SUBCOMMITTEE REPORT

The Chair: We have one other item of business, and that is the report of the subcommittee on committee business. Ms. Mossop, can I have that report, please?

Ms. Jennifer F. Mossop (Stoney Creek): Your subcommittee met on Tuesday, May 30, 2006, and agreed to the following:

(1) That a delegation of the Chair and up to three committee members and two staff attend the 2006 annual meeting of the National Conference of State Legislatures, subject to approval by the House.

(2) That the subcommittee be authorized to approve a committee budget for the delegation attending the conference for submission to the Speaker and the Board of Internal Economy for their approval.

(3) That the procedural clerk (research) prepare a report on webcasting for consideration by the committee.

The Chair: Questions and comments? Shall the report be adopted? Carried.

Shall I present the report to the House?

The Clerk of the Committee: No, not this one.

The Chair: No, I don't have to present this report. Forget it.

Further business? Seeing none, we're adjourned.

The committee adjourned at 1742.

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Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 8 June 2006

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Jeudi 8 juin 2006

Standing committee on the Legislative Assembly

Provincial Parks and
Conservation Reserves Act, 2006

Comité permanent de l'Assemblée législative

Loi de 2006 sur les parcs
provinciaux et les réserves
de conservation

Chair: Bob Delaney
Clerk: Tonia Grannum

Président : Bob Delaney
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 8 June 2006

Jeudi 8 juin 2006

*The committee met at 1015 in room 151.*PROVINCIAL PARKS AND
CONSERVATION RESERVES ACT, 2006LOI DE 2006 SUR LES PARCS
PROVINCIAUX ET LES RÉSERVES
DE CONSERVATION

Consideration of Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006, repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts /
Projet de loi 11, Loi édictant la Loi de 2006 sur les parcs provinciaux et les réserves de conservation, abrogeant la Loi sur les parcs provinciaux et la Loi sur la protection des régions sauvages et apportant des modifications complémentaires à d'autres lois.

The Chair (Mr. Bob Delaney) Good morning, everyone. Welcome back. This is the standing committee on the Legislative Assembly. We are here to resume our deliberations on Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006, repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts.

WEENUSK FIRST NATION

The Chair: We have one deputation this morning, from the Weenusk First Nation. Our presenter is Mike Wabano, Chief. Is that just Chief or Grand Chief, Mr. Bisson?

Chief Mike Wabano: Chief.

The Chair: Just Chief, okay. Just making sure. We want to make sure the protocol's correct.

Mr. Wabano, it's fairly informal. You'll have 15 minutes to make your deputation. In the event that you don't use all of your time, I'll divide it among the parties to ask you questions. Just begin by identifying yourself for the purposes of Hansard and then proceed.

Chief Wabano: My name is Mike Wabano. I'm the Chief of Weenusk First Nation. I'm here to make comments on Bill 11 about the new Provincial Parks and Conservation Reserves Act.

From a historical perspective, the Weenusk—Polar Bear Provincial Park in the beginning was not what you call it today, when it comes to our provincial regimes. For example, in 1967 the order in council passed a go-

ahead to do with the Wild River Park, which is along the river from Webequie all the way down to the mouth of the Winisk—the Weenusk First Nation. Back then, we had a reserve up the river, which is about 90 miles from where we are currently situated.

There is a discrepancy about how this park was created when it comes to our reserve. For example, our reserve was not surveyed until about 1971, but in the meantime the creation of those provincial regulations started in 1967. Polar Bear Provincial Park itself, as it is known today, was created in 1970 and, from our understanding, the purpose of this was to preserve the land and the environment.

I would like to make comments on the park itself and the way it was created. There's some kind of discrepancy as to what First Nations understand when it comes to the boundaries in the agreement that was made, what we agreed to when the park was made. For example, when the park was made, as far as the band was concerned, the park started from Ekwan River which is on James Bay to the south, all the way to the north at Cape Henrietta and all the way to the Kenushio toward Hudson Bay. That was the agreement that my people are familiar with and understand, but when changes were made back in 1972, somewhere in there, the province thought there was a potential for a mineral deposit on the Ekwan River, so they moved the park boundaries from Ekwan all the way up north and expanded all the way to Shagamu, which now stands at over 7,000 square miles. I don't know what that is in kilometres, but it's quite a bit.

1020

One of the areas that we're really concerned about—as you know, a good portion of our traditional land is the Polar Bear Provincial Park. Nowhere have we seen our hunting rights—treaty rights, some people call them. Nowhere have we seen in those regulations a guarantee of our right to go hunting, to trap in that park. It's a big park, and a good deal of our traditional land is inside that park. For example, when we start hunting this summer, we all hunt in the park. In the summer, we hunt caribou inside the park. We basically go around the bay all the way to Fort Severn to the tip of James Bay.

To this day, we have constantly asked the province to make our treaty rights guaranteed under this regulation; so far, we have not received that, and that's still a concern. If this bill is passed, our request from the past to

this day is, are our treaty rights going to be considered in this regulation? It's not mentioned.

It's kind of critical for the culture of the people in that area. We don't have supermarkets where we can buy our stuff. We get our food from the land, basically, and if they were to contest which is better—the food from the land is way better. It makes us healthy. So when you look at our culture, if those regulations are imposed on us, if our hunting rights are not recognized, you're threatening the very existence of this culture, because we're healthy people. We had our first case of diabetes in the mid-1970s. If you were to do a survey of other communities, they had it quite a while longer than us. I guess it's basically, when it comes to the park, an issue with the land, where our rights have to be protected, and it's not considered even in this proposed bill. It says our treaty—even aboriginal issues are not mentioned. There's not even a simple clause to state that our treaty rights will be protected. It's not even included in this proposed bill. So we're very concerned about that in light of the Mekisew and the Supreme Court of Canada case. It should be clear now that when you propose legislation, aboriginal people have to be consulted and our input to this policy has to be addressed, and so far it hasn't been done.

Overall, I guess our position with this park is—we don't have an issue with the way they define parks, which is to preserve and protect the environment, but we've been living there for centuries and our traditional ethics, to put it simply, is about managing sustainability when it comes to wildlife. We have done that to this day. We don't threaten animals, we don't threaten the environment; but when you look at the park, those mid-Canadas are there. Fifty years they've been contaminating the land. Our people are getting sick from that. The animals that we eat are getting sick, so naturally we get sick from that because we depend on food from the land. So if there is a concern about the environment, I think the first thing you should do is clean up those sites, because they're affecting my people.

Our rights should be defined through these policies; our treaty rights and our aboriginal title of the land has to be considered, because right now—for example, we did the winter road this year. It's a simple economic development project for us; we haul fuel and supplies to the community by winter road because it's simply more economical and cheaper than a charter. How we went about that was for three years we consulted Ontario Parks and they said, "The policy does not say that you can do projects of this magnitude in the park." For two years we negotiated, and finally, at the discretion of Minister Ramsay, he approved the winter road. That's just at his discretion. What we want is a guarantee that says that we have a right to economic development and planning, to practise our treaty rights. Right now, that's not stated. That's a really serious concern for us. Basically, those are the main points of my presentation. Thank you.

The Chair: Thank you very much. We should have time for one brief question from each caucus, beginning with Mr. Miller.

Mr. Norm Miller (Parry Sound–Muskoka): Thank you very much for making the trip down here to present to us today. I appreciate you making it. I know it's a long way, and I appreciate you coming in to speak.

The last point you were talking about, economic development and concerns with this bill limiting your opportunity as a First Nation for economic development—what sort of opportunities do you see for yourself in economic development that the park would limit you being involved in? Is it water power, or—?

Chief Wabano: Wind energy; there's a lot of potential for wind energy up north, especially in the Hudson Bay area. That's one example.

Mr. Gilles Bisson (Timmins–James Bay): Tell them how much you pay for electricity per kilowatt hour.

Chief Wabano: Sixteen cents per kilowatt.

The Chair: Mr. Bisson, you're out of order. It's Mr. Miller.

Mr. Miller: So wind energy is one example. Have you got any other examples of concerns you'd have about your economic opportunity being limited by the park?

Chief Wabano: Tourism, for example. They're putting a limitation on the kind of vehicles that can be used inside the park.

Mr. Miller: Do you know what class Polar Bear Provincial Park is? Is it a wilderness class park?

Chief Wabano: Yes.

The Chair: Thank you. Mr. Bisson?

Mr. Miller: I'd like to ask more questions.

Mr. Bisson: Yes, he's a pretty tough guy.

First of all, welcome to the committee. As members know, Chief Mike was coming down for another thing, so we appreciate you accommodating, allowing him to present today and not having to do it last week, because it would have been a separate trip altogether.

I guess I pretty well know what the situation is, but just for the benefit of the committee, the issue is—and maybe you can just elaborate on this—as both the waterway park was created and the Polar Bear Provincial Park was created, could you elaborate a bit on what happened as far as the lack of consultation with the First Nation and what the end result was?

Chief Wabano: The water park was not discussed with us when it was created; just Polar Bear park.

Mr. Bisson: That's one of the amendments that you'd like to have, something in there that there is an obligation on the part of the province to consult First Nations on creating parks.

Again, just to give the committee a bit of a sense, your particular community is smack-dab in the park, per se, as most of your traditional territory. Is that correct?

Chief Wabano: Yes.

Mr. Bisson: Is this classified a wilderness park? I'm not quite sure about that.

Chief Wabano: Yes.

Mr. Bisson: So that means to say that under this bill, all of your traditional practices would cease, because in a wilderness park, you can't use motorized vehicles etc.

Chief Wabano: That's right. The Wild River Park itself—I think it's about 60 to 100 feet on each side of the river that you're not supposed to cut trees to make your camp. It's just the way the regulation is. If this becomes law, we're impacted a great deal.

Mr. Bisson: Okay.

Mr. David Oraziotti (Sault Ste. Marie): I appreciate you coming here, Chief Wabano. I have had the pleasure of travelling to Polar Bear Provincial Park in Peawanuck and Attawapiskat and the area, a beautiful part of the province that many people don't have the opportunity to see. Certainly, thank you for making the trek here. It's a significant distance.

The concerns that you've raised—I just want to touch on a couple of things. First of all, the ministry had extended consultation opportunities for all First Nations across the province—one of the reasons why you're here today—and we thank you for being here today.

Your concern around respecting aboriginal or treaty rights with respect to this bill—that is definitely our intent. We will be introducing an amendment this morning to do that in section 3, so that this bill would take into consideration, obviously, all of those rights that are currently in place. All of the existing treaty and aboriginal rights in the province would be respected. This would be subject to those rights as well. So I appreciate your comment on that.

With respect to section 7, we'll also be introducing an amendment that will allow exceptions for the use of motorized vehicles in the parks that you're making reference to so that you can continue to do those traditional activities that you have been doing.

Also, with respect to the development of electricity, you mention wind power. I know in my area of Sault Ste. Marie, we're developing wind turbines on the shore of Lake Superior. I appreciate the northern perspective on this, that there is considerable capacity for wind generation. I just wanted to also let you know that in section 20, we will be making an amendment to address the issue around the lowest cost being a factor for development and the ability to develop wind energy and other electricity forms of generation that would obviously take into consideration your concerns.

I don't have any questions for you, but I just wanted to address those three specific sections that you made reference to and again thank you for taking the time to be here.

The Chair: Chief, we wish you a safe and pleasant stay here and a pleasant journey home.

Chief Wabano: Thank you.

Interjection.

The Chair: Hansard will so note. This committee stands in recess for 10 minutes.

The committee recessed from 1032 to 1052.

The Chair: The standing committee on the Legislative Assembly is back in session. We are at clause-by-clause consideration of Bill 11, An Act to enact the Provincial Parks and Conservation Reserves Act, 2006,

repeal the Provincial Parks Act and the Wilderness Areas Act and make complementary amendments to other Acts.

Are there any comments, questions or amendments to any section of the bill, and if so, to what section?

Section 1: Mr. Bisson.

Mr. Bisson: I move that section 1 of the bill be amended by striking out “ecologically sustainable recreation” and substituting “ecologically sustainable recreation and research.”

The Chair: Questions and comments?

Mr. Bisson: This is based on the presentations that we've had by various people. The motion recognizes the important role Ontario parks play as research sites, and it gives us an opportunity to entrench within the legislation not just trying to sustain our parks for ecological reasons, but also that we're able to become world leaders in developing the sciences around parks management and how we approach that.

The Chair: Further questions and comments? Shall the amendment carry?

Mr. Bisson: You guys have got nothing to say?

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): We wanted to speak earlier, before you spoke, but—

Mr. Oraziotti: Mr. Chair, we've just got all the amendments. I'm going to need 15 or 20 minutes to go through them with the caucus and ministry staff, rather than just proceeding right now.

The Chair: It is your privilege to request a recess.

Mr. Oraziotti: That's what we're requesting, then.

The Chair: Then the committee stands in recess for—do you need 20, or would 15 do?

Mr. Oraziotti: As soon as we can get back here, we will, but we may need up to 20.

Mr. Bisson: Can I make a suggestion? We've all blown our flights for this afternoon. This is really crazy, trying to deal with all of these amendments. This is a technical bill. We're trying to deal with amendments. I don't expect you to understand the rationale of all of mine; I'm just looking at your first one, and I don't understand the rationale of yours. Can we break and come back this afternoon?

Mr. Miller: We may need the time this afternoon. I'd just as soon we take as much time as we need to look over the amendments, but leave available the maximum amount of time to actually work our way through them.

Mr. Oraziotti: Part of why we're in the situation right now is that we certainly wanted to accommodate the chief, who could have been heard earlier, but given this day, we obviously couldn't start clause-by-clause before we heard the last presenter. So here we are today, trying to review each other's amendments to the bill at the last minute. Do you think we could take 20 minutes and come back?

Mr. Bisson: We'll do as much as we can. That'll get us to lunchtime, and then we can work on our amendments over lunch. My only suggestion is—we had kept aside two days for possible hearings. Sometimes we try to truncate these hearings and clause-by-clause in a very short time span, and I think that's the problem. You need

time between the last hearing and the actual amendments, but that's all water under the bridge now.

Mr. Oraziatti: About 20 minutes, if that's acceptable to everyone.

The Chair: The committee stands in recess until 11:15 a.m.

The committee recessed from 1056 to 1134.

The Chair: Welcome back. We are set to begin clause-by-clause consideration of Bill 11 following our brief recess. Just before we left, we were at Mr. Bisson's resolution as an amendment to section 1.

Mr. Bisson: Just to recap quickly—I won't read it again—what we're trying to do here is to add research as part of the management plan, so that we look at parks in the management plan as not just what we have traditionally in the definition but we also look at research, so that we are able to do cutting-edge work towards developing good policies, good methods of being able to preserve our parks and enhance our understanding of them. Hopefully that will put us in a position in future years to become, as we are now, world leaders; just keep us at the cutting edge, on the cusp, of managing parks.

The Chair: Further questions and comments?

Mr. Oraziatti: I appreciate the proposed amendment from the NDP. In paragraph 2(1)4 of the bill, there is an existing reference to objectives which contains research: "To facilitate scientific research and to provide points of reference to support monitoring of ecological change on the broader landscape." It's also referenced in paragraph 2(2)3. So I appreciate the amendment but it is redundant and we won't be supporting it.

Mr. Bisson: Just for the record, it's not redundant because it's in the purpose clause. The purpose clause sets out what the bill is all about. You can hardly say it's redundant, adding it to the purpose clause. If it's in the purpose clause, it applies to the entire bill. If it's somewhere else in the bill, in certain clauses, it only applies to part of the bill. So it was in order to make sure that we understand that the purpose of this bill is to do what it set out, but also to look at the issue of research in all sections of the bill.

The Chair: Further questions and comments? Shall the amendment carry? I heard a no.

All those in favour? All those opposed? I declare the amendment lost.

Interjection.

The Chair: In this business, it doesn't matter whether you've been scored on first or whether you got the first goal.

Mr. Bisson: Tell that to Edmonton.

The Chair: They didn't get a goal at all. Shall section 1 carry? Carried.

Mr. Bisson: No.

The Chair: No? Was that a no?

Mr. Bisson: I want to vote.

The Chair: A show of hands. All those in favour of carrying section 1? All those opposed? Section 1 is carried.

Section 2: Questions and comments?

Ms. Jennifer F. Mossop (Stoney Creek): I move that paragraph 2 of subsection 2(2) of the bill be struck out and the following substituted:

"2. To provide opportunities for ecologically sustainable land uses, including traditional outdoor heritage activities and associated economic benefits."

The Chair: Questions and comments?

Mr. Bisson: Could you just explain that, because you're taking out the words "outdoor recreational opportunities." Explain the rationale.

Mr. Oraziatti: The rationale is to ensure that we're able to include those traditional activities that have been taking place in our parks. It makes the definition a little bit broader.

Mr. Bisson: You see this as making it broader? Currently it reads "sustainable outdoor recreational opportunities," and we're removing "outdoor recreational opportunities" and just calling them "heritage activities and associated economic ... " development. So does it limit—

Mr. Oraziatti: Part of the rationale is that the—

Mr. Bisson: Can we bring the ministry here? Is that possible, on the really technical ones?

Mr. Oraziatti: Yes, they're here.

Mr. Bisson: Can we have somebody maybe come and explain this? Is it "limit" or is it "expand?" That's what I'm trying to figure out here. I appreciate your explanation, Mr. Oraziatti.

Sit down. Give your name, please.

1140

Mr. Robert Moos: Bob Moos, Ministry of Natural Resources. In essence, the Ontario Federation of Anglers and Hunters was concerned that some of their traditional activities weren't recognized by the current language. So we're trying to use language that is a bit more inclusive, that would give them comfort that the activities they engage in are included within this objective. That is essentially the reason.

Mr. Miller: So does your taking out "recreational opportunities" in any way change the recreational opportunities?

Mr. Moos: No, because traditional "recreational opportunities" is not clearly defined in the legislation and we believe it's as broad basically as "recreational activities."

Mr. Oraziatti: It's consistent with what they had suggested.

The Chair: Further questions and comments?

Mr. Bisson: Just in regard to, let's say, Weenusk First Nation, as far as heritage activities, does it include all of their activities, in addition?

Mr. Moos: It could be construed as including some of those, but those are also dealt with under the Constitution Act and have a separate life of their own.

Mr. Bisson: Let me give you this as an example. One of the parks that I visited in northwestern Ontario, Pikanikum or one of those communities, was next to a park. The issue was that they were limited in some of their traditional activities by the creation of the park. So does this expand that ability?

Mr. Moos: No, but I think there's another motion that may give some comfort there.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Shall section 2, as amended, carry? Carried.

Section 3.

Mr. Bisson: I move that section 3 of the bill be amended by adding the following paragraph:

"3. An ecosystem management approach based on the greater provincial park ecosystem or the greater conservation reserve ecosystem shall be employed to maintain or restore ecological integrity within provincial parks and conservation reserves."

The Chair: Questions and comments?

Mr. Orazietti: The minister has publicly committed to a policy to review this. It falls, really, outside of the scope of this particular act, so we cannot support it.

The Chair: Further questions and comments?

Mr. Bisson: That's rather regrettable.

Mr. McMeekin: At this time.

Mr. Bisson: At this time. So you'll get a promise for the next election. Is that what it is?

Interjection.

Mr. Bisson: Hang on, hang on.

Mr. McMeekin: You don't want to agree to consultation and then prejudice the consultation.

Mr. Bisson: Oh, my God.

Mr. Mario Sergio (York West): Mr. Chairman, let's get on with it.

The Chair: Mr. Bisson is entitled to his questions and comments.

Mr. Bisson: We heard a number of depositions on this whole issue of the good neighbour clause. I understand there are two sides to this particular story, but there's a good point to be made. If you have a geographical boundary that's here and some activity just on the outside of the park is going to have an effect on the park itself, it seems you need some kind of mechanism to be able to deal with that.

Mr. McMeekin: That's what we're looking at.

Mr. Bisson: You're not looking at it, because you're voting the motion down.

Mr. Orazietti: The act itself does not deal specifically with land use planning issues. That would obviously be dealt with in other land use planning issues around municipalities and consultation. So that's not specifically part of the purview of this act and that's the reason why we can't support it.

Mr. Bisson: Again, I appreciate what you're saying, which is that you're going to vote against the amendment, but let's be clear. There were a number of presentations that were made to this committee and they were pretty unanimous on this particular issue. We need to recognize what the bill does. Number one, it deals with how we deal with the parks management system. We bring the policy into legislation, which is a good thing. We've said that in the House; we're in support of that. But we certainly have to take into consequence what happens outside of the park to a degree, because you can

have something that happens as an activity outside the park that may very well impact. For example, if you have a development upstream on a river that flows through the park, if you have some kind of activity that's happening upwind from the park, you have to be able to look at that stuff so that whatever happens doesn't migrate into the park and create a problem. So I would just understand your rationale a little bit more, why you want to vote against it.

Mr. Orazietti: Mr. Bisson, you're absolutely right in terms of the overall framework here and considering what is in the interest of the park system in the province, but that is not dealt with in this bill. That's a land use planning issue. It's something that needs to be taken into consideration. Let's not forget that we also heard presentations from individuals who wanted no type of framework around parks or outside of parks and those who would have this legislation go further and regulate other areas well beyond the boundaries of the park. Let's stick with the focus of the bill. That's the reason we can't support it.

Mr. Bisson: But you could have amended the other bill through here. There's no reason why you can't, when drafting a bill, deal with that issue. Well, it's your vote; you stand on your votes.

The Chair: Shall the amendment carry? I heard a "no."

All those in favour? All those opposed? I declare the amendment lost.

Shall section 3 carry? Carried.

Section 3.1.

Mr. Miller: I move that the bill be amended by adding the following section:

"Existing aboriginal or treaty rights

"3.1 Nothing in this act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the Constitution Act, 1982."

We certainly heard from many First Nation groups that were concerned that this bill would affect their treaty rights. This is meant to address that situation, and I note that there are some other similar amendments put forward by other parties as well.

Mr. Bisson: The amendment presented by the Conservative caucus is identical to ours, so we will support it.

Mr. Orazietti: As members can see in the package, the government has an amendment addressing this issue. As I mentioned this morning to the presenter, we would be making reference to the act not superseding First Nations treaty rights. So we will not be supporting this amendment. We will be supporting the next amendment, which—

Mr. Bisson: Hang on a second; I'm a little bit lost here.

Mr. Orazietti: It's covered; it's taken care of.

Mr. Miller: It's up to you. All you do is support this one, just to be nice to me, and then yours are done.

Interjections.

Mr. Miller: This is important. Then we don't have to vote on the next two.

The Chair: If the Chair can interject, we have three identical motions. If this motion is defeated, the other two will be ruled out of order because they are identical. So I put it—

Mr. McMeekin: Would you entertain a motion then, Mr. Chairman, that in the spirit of moving this forward we would roll all three motions together, with all-party consensus, and vote on them as a block?

The Chair: That would be out of order. We are in fact considering Mr. Miller's motion. Mr. Miller's motion is, word for word, identical to the following two motions.

Shall the amendment carry? Carried.

Mr. Sergio: For clarification, we have an NDP motion, we have a government motion and we have a PC motion. Unless the professional people—staffers, lawyers—can tell us here that two identical motions, even though they come from different political parties, should be treated the same, then I have a problem with this. They may be identical, but they come from three different political parties. Can we have some clarification on this?

Mr. Bisson: It's called the standing orders, and the standing orders are that if you vote against an identical motion, it kills all the others. That's what the issue is.

Mr. Sergio: Excuse me, can I hear from the—

Mr. Bisson: But that's what the standing orders are. You won't even accept my explanation; you have to hear it from—my God.

The Chair: Okay, let me reiterate it: Under the standing orders that govern the procedures of this committee, if the first of any number of identical motions is turned down, the balance are indeed out of order. The version of this bill, once adopted, will not show which party put forward the motion.

Mr. Sergio: For the benefit of Mr. Bisson, during our briefing this morning, there were two identical motions, and one came from the opposition. To be courteous to the opposition, we should support their motion, all right?

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The Chair: Splendid.

Interjections.

Mr. Orazietti: That's fine. I was just checking. We've spent some time going through these. The package is quite lengthy. I was concerned that, although the spirit is there and the wording was identical, there was not some other change. We're dealing with First Nation issues that are impacting on this bill and it's important that our motion be identical; it's just to have an opportunity to verify that it is identical and not simply the same in spirit.

Anyway, that's fine. We'll support both of these motions—or all three of them.

The Chair: Mr. Orazietti, you're just going to have to take unanimity on this one.

Mr. Bisson: Anonymity can be so difficult.

The Chair: The amendment, as I understand it, has carried.

We're considering section 4. In your package of amendments that would be number 3(c).

Mr. Bisson: I move that subsection 4(1) of the bill be amended by adding the following definition:

"'First Nation' means a band as defined in the Indian Act (Canada);"

It's under the definitions of that particular section. We take it directly from the Constitution Act, just for the purpose of the subsequent amendments, so that we're clear what the definition is.

Mr. Orazietti: I think we have an identical motion in the package, if members want to take a look at page 33 in the package, section 52(4). I'm just checking the wording here to make sure it is identical: "'First Nation' means a band as defined in the Indian Act (Canada)." So I think we're—

Mr. Miller: There is this NDP motion and then there are some other motions that have fairly similar wording that deal with other sections. Do they work together? Are they compatible? I would ask legal counsel.

Mr. Bisson: Yes.

Mr. Orazietti: It's in a different section.

Mr. Miller: I assume they are, but just not being a lawyer—

Mr. Orazietti: We're prepared to support it, but it needs to go in another section.

The Chair: If the Chair could interject on this, in Mr. Bisson's proposed amendments his definition applies to global definitions for the entire bill. In Mr. Orazietti's later motion, his definition would apply to section 52 of the bill only.

Mr. Bisson: Which is regulations only.

The Chair: That would be the difference.

Mr. Bisson: That was my point. They are similar but their effect is different. Your amendment, which we would support, would deal with all the regulations and the powers of the minister to make regulations under the act. Ours doesn't deal with just the regulations, it deals with the act in its entirety. So as I understand it—and maybe we're going to get good clarification here. Do you have something you want to add?

The Chair: Would staff like to provide clarification? Please identify yourself for Hansard.

Ms. Krystine Lintell: Krystine Lintell, counsel, legal services, Ministry of Natural Resources. The reason is that that's the only place where the term "First Nation" is used. In order to—

The Chair: Could you please lean a little bit closer to the microphone.

Ms. Lintell: In order to properly position it in the interpretation section, it needs to be used in more than one provision of the act.

Mr. Bisson: But we have a number of amendments that deal with First Nations. That's why we put it in definition. In fact, we just dealt with the non-derogation clause where the term "the aboriginal peoples of Canada" is used. Our point is that we have further amendments coming in the bill that deal with First Nations. In order to

make that consistent, that's why we have that particular amendment.

Ms. Lintell: Would we not have to determine whether your motions carry in order to—

Mr. Bisson: The problem is that the rules don't allow us to do that. We're going through clause-by-clause of the bill in order. We've looked ahead at what our amendments are, and our amendments deal with a number of First Nations issues. Therefore, we've got a definition for that. I can't go and deal with the amendments—we've got to do this in order.

Ms. Lintell: I understand.

Mr. Bisson: You follow?

Ms. Lintell: Yes.

The Chair: Further questions and comments? Shall the amendment carry? Carried.

Interjections.

The Chair: Order. I did not hear a dissenting vote. Let's try it again: Shall the amendment carry? I heard a no. All those—

Mr. Bisson: On a point of order, Mr. Chair: You asked for the question. There wasn't a no. It was to the affirmative, so therefore it's dealt with.

Interjection.

The Chair: Order. Mr. McMeekin, I asked very clearly, "Shall the amendment carry?" I heard "carried"; I did not hear a no.

Interjections.

Mr. Bisson: But you have to say no. It was like the other day. You didn't know how to vote on the opposition day motion.

Interjections.

The Chair: Order. All those—

Mr. Bisson: On a point of order, Mr. Chair: The voting procedures are clear. They're set out in the standing orders. You called the question. If I am opposed, I have to say no when you call the question. There were no noes, so therefore it's a yes. You're not going to vote twice on the same motion.

Interjections.

The Chair: Hold on. Mr. Miller.

Mr. Miller: The motion obviously carried, and the government didn't realize they needed to speak up. Maybe the clerk could clarify the process if the government wants to address it again, or how they can address it.

The Chair: The Chair rules that the motion has carried. Thank you.

Mr. Oraziotti: Excuse me, Mr. Chair. I spoke in opposition to this amendment very clearly. We've also had a legal opinion in opposition to this. You called for the vote—

The Chair: Mr. Oraziotti, I've ruled that the motion has carried. If you choose to oppose a motion when I ask, "Shall the amendment carry," please say no. This amendment has carried.

Mr. Sergio: On a point of order, Mr. Chair: Perhaps not to encounter the same problem as we move on, in-

stead of "carries" or "not carries," can you please say, "in support" or "not in support"?

Mr. Bisson: That's not the way it works.

Mr. Sergio: Are you the Chairman, Mr. Bisson? I would ask that the Chair call "in support of the motion"—

The Chair: Order. Mr. Sergio, I will run the meeting pursuant to the standing orders. I will ask, "Shall the amendments carry?" And in the event I hear a no, I will ask for either "All those in favour" or "opposed," or, upon request, a recorded vote.

Mr. Sergio: When do we call for a recorded vote, Mr. Chairman?

The Chair: Mr. McMeekin.

Mr. McMeekin: Mr. Chairman, with all due respect, and I may have heard you wrong, but what I—

Interjection.

Mr. McMeekin: Do I have the—I'm speaking.

The Chair: Mr. McMeekin.

Mr. McMeekin: Mr. Chairman, I may have misheard you, but I say with respect that I distinctly recall—

The Chair: Mr. McMeekin, you cannot challenge a ruling by the Chair. The Chair has ruled that the amendment carried.

The committee stands in recess until after routine proceedings.

The committee recessed from 1158 to 1600.

The Chair: Good afternoon and welcome back to the consideration of Bill 11. At the recess we were just beginning consideration of a PC motion on page 4 in your package. This is pursuant to section 4. Mr. Miller?

Mr. Miller: I move that subsection 4(3) of the bill be amended by striking out "and" after clause (a), by adding "and" after clause (b) and by adding the following clause: "(c) ecologically sustainable recreation."

Section 4 is the "Definitions and interpretation" section. In section 1 of the bill, the "Purpose" of the act, it states, "and provides opportunities for compatible, ecologically sustainable recreation." In section 2, which is "Objectives," it says, "To provide opportunities for ecologically sustainable outdoor recreation." This amendment is necessary to ensure explicit consistent application of this.

The Chair: Questions or comments?

Mr. Bisson: A question to Mr. Miller: Does that, in your opinion, weaken the legislation as far as protection is concerned?

Mr. Miller: No, I think it's consistent with the purpose and the objectives. I think it's just clarifying, not weakening.

Mr. Oraziotti: We will not be supporting this amendment as it does, in our opinion, weaken ecological integrity. It's obviously the issue "sustainable recreation" that would do that. We feel this is covered in paragraph 2 of subsection 2(2). Those are our comments.

Mr. Miller: I'm not likely to convince the government members, but I would like to point out that it's stated virtually identically under the purpose of the bill and in the objectives of the bill. If anything, this just

clarifies what the purpose and objectives state and makes it clearer.

The Chair: Further questions and comments? Shall the amendment carry?

All those in favour? Those opposed? I declare the amendment lost.

Amendments to section 4.

Mr. Miller: I move that section 4 of the bill be amended by adding the following subsection:

"Same

"(4) The ecological integrity and sustainability of crown forests outside of provincial parks and conservation—"

Sorry, this is the one I wanted to change. I've spoken to the clerk and given her the exact wording of it. I'll start over to give you the exact amendment.

Under subsection 4(4) of the bill:

"Same

"(4) This act does not apply to crown forests outside of provincial parks and conservation reserves."

This is to make it clear that outside of protected areas, the Crown Forest Sustainability Act governs forestry activities. Just so it's clear what the actual amendment is, it is, "This act does not apply to crown forests outside of provincial parks and conservation reserves."

The Chair: Questions and comments?

Mr. Bisson: Again, just a question: I take it it's just to keep us in compliance with the CFSA, is what you're getting at.

Mr. Miller: Yes.

Mr. Bisson: Is it your fear this bill will impact on those forests?

Mr. Miller: This is an amendment that has been sought by the Ontario Forest Industries Association. They're concerned about park creep affecting their activities, and they feel the Crown Forest Sustainability Act does its job.

Mr. Bisson: If it's good enough for Jamie Lim, it's good enough for me.

Mr. Oraziotti: This is beyond the scope of the act. What we're doing today applies to the parks act. We cannot support this amendment.

Mr. Miller: If I may add another comment, the wording is very similar to wording used in the Crown Forest Sustainability Act that states, in the case of the Crown Forest Sustainability Act, "This act does not apply to a crown forest in a provincial park within the meaning of the Provincial Parks Act, 1994," so it's basically saying that, but from the other side. I think it is within the parameters of what this bill is dealing with.

The Chair: Further questions and comments? Shall the amendment carry?

All those in favour of the amendment? All those opposed? I declare the amendment lost.

Shall section 4, as amended, carry? Carried.

Section 5: Amendments?

Mr. McMeekin: I move that section 5 of the bill be struck out and the following substituted:

"Parks dedicated to the public

"5. Ontario's provincial parks and conservation reserves are dedicated to the people of Ontario and visitors for their inspiration, education, health, recreational enjoyment and other benefits with the intention that these areas shall be managed to maintain their ecological integrity and to leave them unimpaired for future generations."

The Chair: Questions and comments?

Mr. Bisson: Basically, all you're doing is going from "benefit" to "benefits." Maybe you could just explain that a little bit. I think I know where you're going.

Mr. Oraziotti: I think it's fairly straightforward. By adding "other benefits," the amendment makes it clear that protected areas can provide a range of benefits, such as scientific or economic benefits to the province. It's been recommended by the parks board.

Mr. Bisson: Just a question: Do you have the feeling that if you left it in the singular, you can only have one benefit, that it would have made it contrary to the act to have two benefits?

Mr. Oraziotti: I've made my comments, Chair. Thank you.

Mr. Bisson: So you're in favour of multiple benefits, not single benefits?

Mr. McMeekin: That's right.

Mr. Bisson: That's all I wanted to know.

The Chair: Mr. Bisson, as always, can split semantical hairs in two languages.

Shall the amendment carry? Carried.

Shall section 5, as amended, carry? Carried.

Section 6: Amendments?

Mr. Bisson: I move that section 6 of the bill be amended by adding the following subsection:

"Existing agreements continued

"(2) All agreements made in respect of provincial parks and conservation reserves in existence when this act is proclaimed in force shall continue and shall be deemed to be authorized under this act."

Just by way of explanation, you will know that there has been a number of agreements that have been negotiated by MNR and various individuals—First Nations and other users—when creating some of the reserves, conservation areas and even some of the parks. We need to make sure that those agreements that were negotiated stay in place.

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For example, in the creation of a conservation reserve, there might have been a First Nation community that was using part of that reserve as part of their trapping grounds, so we needed to negotiate agreements about what can and can't be done. Some of that stuff was done; it was fairly intense negotiation in some cases. I know there were cases in Quetico Provincial Park, when it was created, where existing users would not be isolated from utilization of their areas by the creation of the park and the park boundaries. This is to make clear that those agreements that were negotiated in the existing parks stay in place when this act is proclaimed.

The Chair: Further questions and comments?

Mr. Miller: I would support this amendment. I know the minister has stated to many groups that the status quo would be maintained with this legislation, so I will be supporting it.

Mr. Oraziotti: We will not be supporting this amendment. This is already covered in subsection 13(3): "Commercial agreements, leases, land use permits and licences of occupation made in respect of the use or occupation of land in provincial parks or conservation reserves before this section is proclaimed in force shall continue according to their terms and shall be deemed to have been made under this act." We feel it's covered. Those are our comments.

Mr. Bisson: To that point: We saw that in the act, and like you, we were alerted to subsection 13(3). But as we read this, we were contacted by a few people who happened to be in situations where they don't have a commercial agreement, they don't have a lease, they don't have a land use permit, and they sort of fall outside of this. It's a bit grey where they're at, because they were agreements that in some cases had nothing to do with commercial operations. So they were seeking to have a more general section put in the act in order to make sure they don't fall between the cracks.

The Chair: Further questions and comments?

Mr. Bisson: Can I twist your arm? How about if I give you five jujubes?

The Chair: With that as a prelude, shall the amendment carry?

All those in favour of the amendment? All those opposed? I declare the amendment lost.

Shall section 6 carry? Carried.

Section 7: Mr. Bisson, you have another section.

Mr. Bisson: I move that subsection 7(1) of the bill be amended by adding the following paragraph:

"3.1 First Nation Cultural Heritage Class Parks."

This speaks directly to a presentation that was made by Grand Chief Stan Beardy from Nishnawbe Aski Nation and a few others with regards to recognizing that First Nations have a lot to contribute when it comes to the whole issue of creating parks. They thought it would be appropriate that we have an additional description under section 7 so that we could also develop what's called a First Nation cultural heritage park, which would probably be quite a nice thing to do on behalf of First Nations. I know that the government wants to support First Nations, so they will support this motion.

The Chair: Questions and comments?

Mr. Oraziotti: I appreciate the recommendation here. As the member knows, the minister is working with Pikangikum First Nation to develop protected areas. I think what may be a bit misleading, though, is the suggestion that all First Nations are in agreement with the types of cultural areas or parks that could be created. There is not agreement among First Nations. They need further consultations, and we're certainly prepared to do that.

I'd also draw your attention to subsection 7(4), which has cultural heritage class parks inclusive of all cultures

in the province of Ontario. So we can't support the amendment.

Mr. Bisson: Further to that, first of all, to say that there's no unanimity within the First Nations communities—that's kind of the case with the rest of society. I have yet to see any particular individual language or cultural group to be in unanimity. God, we don't even have unanimity in this room; imagine that. So if we're going to paralyze ourselves on the basis of somehow or other we have a different standard when it comes to First Nations and the only way we move forward is by everybody being on the same page, we'll never get anywhere. Imagine having that in the Legislature. We'd never get anywhere for sure.

In regards to your comments about Pikangikum, I've been to Pikangikum a couple of times. As you know, there's great consternation there within the community in regard to what happened to them with the creation of parks right around their community. There's certainly a sense on the part of many First Nations that if you don't put this in the legislation, it's a little bit like waiting for Santa Claus to show up. Santa Claus is promised, never comes down the chimney and Christmas never comes. They're just waiting for something in the legislation to know that Christmas can come early this year and David Oraziotti can deliver it. So if you change your mind, Christmas will come early for many people in northern Ontario.

The Chair: Shall the amendment carry?

Mr. Bisson: To the point about Christmas, you've got to say yes.

Mr. Lorenzo Berardinetti (Scarborough Southwest): No to the amendment, Mr. Chair.

Mr. Bisson: No to Christmas.

The Chair: All those in favour of the amendment? All those opposed? I declare the amendment lost—there, however, being at least two potential Santa Clauses on the committee.

Mr. Bisson: Well, some of us can fit in the suit.

The Chair: Further amendments?

Mr. McMeekin: I move that subsection 7(2) of the bill be struck out and the following substituted:

"Objectives: wilderness class parks

"(2) The objective of wilderness class parks is to protect large areas where the forces of nature can exist freely and visitors travel by non-mechanized means, except as may be permitted by regulation, while engaging in low-impact recreation to experience solitude, challenge and integration with nature."

The Chair: Questions and comments?

Mr. Miller: I note that this change would effectively discriminate against those who rely on things like wheelchairs, for example, so against disabled people. Also, it would mean that mechanized devices like bicycles or canoe portage carts would not be allowed. I received a letter from a lawyer on this specific issue raising that concern. He notes that he called the MNR to learn that—he called three wilderness parks, and they all welcome bicycles at the current time. This change—going from

travel primarily by non-motorized means to travel by non-mechanized means—means that bicycles or wheelchairs would not be permitted in parks. As I say, I think this would certainly be discrimination against the disabled, and not necessarily something that we want to see happening.

In the letter I received from this lawyer, he points out as well that in terms of the way the legislation is drafted, it's inappropriate to draft it and then look at exceptions. He specifically said to me, "It is inappropriate for the Ontario Legislature to place a restriction on the use of specific vehicles such as bicycles and wheelchairs in a section setting out the objectives for wilderness parks. This is so particularly in the view of the fact that bicycles are currently allowed in Ontario wilderness parks. It would be more appropriate for a rule regarding restrictions on the use of bicycles and wheelchairs to be dealt with specifically in regulations," versus in the bill itself. So based on that, I won't be supporting this.

The Chair: Further questions and comments?

Mr. Oraziatti: It's certainly the intent of the government to ensure that things like bicycles, boat lifts, wheelchairs and the like will be made available and accessible for parks that currently allow those. That amendment will be put forward by the government in section 52. If members care to look, that's on page 32 of your package.

The Chair: Further questions and comments? Shall the amendment carry? Carried.

Further amendments to section 7?

Mr. Bisson: I move that section 7 of the bill be amended by adding the following subsection:

"Objectives: First Nation cultural heritage class parks

"(4.1) The objective of First Nation cultural heritage class parks is to protect elements of First Nations' distinctive cultural heritage in open space settings for their intrinsic value and to support interpretation, education and research."

1620

The Chair: Questions and comments?

Mr. Oraziatti: We discussed this earlier, and we gave a rationale for this. We won't be supporting this amendment.

Mr. Bisson: First of all, it's out of order. You guys aren't paying attention.

Mr. McMeekin: You made an out-of-order motion. Shame on you.

The Chair: It must be Thursday, late in a sitting.

Shall section 7, as amended, carry? Carried.

The eagle eye of the clerk's staff would definitely have picked up all of these, had the amendments been tabled with at least one long evening to go through them.

Mr. Bisson: You've got that right.

The Chair: That said, the Chair accepts the "gotcha."

Section 8: Are there amendments to section 8?

M. Bisson: J'ai un amendement que j'aimerais mettre en place.

I move that subsection 8(1) of the bill be struck out and the following substituted:

"New parks and conservation reserves

"8(1) The Lieutenant Governor in Council may by order set apart as a provincial park or a conservation reserve any area in Ontario, may increase the area of any provincial park or conservation reserve and may prescribe the boundaries of any provincial park or conservation reserve, consistent with the purpose, dedication, objectives and principles of this act."

The Chair: Questions and comments?

Mr. Oraziatti: We cannot support this amendment. We need the ability to decrease the size of a provincial park, and obviously there are ways to purchase other land to add to that park for various reasons or to correct errors in the transference of land. So we won't be supporting this motion.

Mr. Bisson: It's rather sad, because this is sort of like marking the continuation of what are floating boundaries. We've seen with the greenbelt legislation the government's willingness to move on these floating boundaries. You have a greenbelt or you don't have a greenbelt. You're not quite sure, depending on where you are at any minute of the day. What we're trying to do here, as you'll see through the various parts of section 8, is to make clear that once a park is established, the only way we can undo the park is by an act of the Legislature.

As we know, there's a fairly strong sense in the province that parks are an important part of our heritage, that we need to make sure at the end that we protect those parks. I always thought the reason we're doing this whole bill in the first place is to protect parks, and what better way to do that than to say, "If there's going to be an amendment to the boundary, you have to come to the Legislature to get approval"? If there's a good reason, members in their infinite wisdom will vote in favour, and if not, they will reject it.

The Chair: Further discussion?

Mr. Oraziatti: Just on that, I'll add these comments: We're prepared to lower the threshold to 1% or 50 hectares. Anything that is that amount or less would be subject to the approval of cabinet and the minister. Burdening the Legislature with many minor amendments is somewhat excessive. So we're not going to support the amendment.

Mr. Bisson: I'm not going to belabour this, but just say that it's never a burden for legislators to do their job. I don't have an aversion to having a bill come to the House to be debated on the change of the bill.

Interjection.

Mr. Bisson: What do you mean "bogged down"? It's democracy. Either this government believes in democracy, or they don't. I'm so disappointed.

The Chair: Shall the amendment carry?

All those in favour? All those opposed? I declare the amendment lost.

Further amendments to section 8? Mr. Bisson.

Mr. Bisson: I move that section 8 of the bill be amended by adding the following subsections:

"Same, identifying and consulting First Nation communities

“(1.1) Before the Lieutenant Governor in Council sets apart any area in Ontario as a provincial park or conservation reserve or increases the area of any provincial park or conservation reserve, the minister,

“(a) shall identify all First Nation communities whose lands or traditional territories may be affected by the establishment of the provincial park or conservation reserve or by the increase in the area of the provincial park or conservation reserve; and

“(b) shall consult with such First Nation communities.

“Same, involvement of First Nation communities

“(1.2) As part of the process of setting apart an area in Ontario as a provincial park or conservation reserve, the minister shall ensure that,

“(a) opportunities for co-management with local First Nation communities are considered;

“(b) traditional ecological knowledge of First Nation peoples is considered; and

“(c) a First Nation person with traditional ecological knowledge is included among the individuals who are charged with establishing the new provincial park or conservation reserve.”

This particular amendment speaks to what was said by Chief Mike Wabano, Grand Chief Stan Beardy, Chief Arthur Moore from Constance Lake and others who came before us. It's unfortunate that we have a very long history in this province of creating parks and not consulting First Nations. Mike Wabano from Peawanuck—Winisk, as it used to be known—was here to say that when they created the Polar Bear Provincial Park, it was done without the knowledge of the First Nation. The First Nation was sort of the last to know. When they created the waterway park, it was the same story. We have the same story in Pikangikum, Constance Lake and a number of places, you name it, where the crown has gone in and created a provincial park without going to the people who are the traditional utilizers of the land to say, “A provincial park is being built.” So the very first part of the amendment says you've got to consult with the First Nations if you're going to create a park.

The second thing is something where we really have an opportunity to do what's right here, and that is the use of traditional knowledge. Mr. Orazietti rightfully talked about the process in Pikangikum, where Pikangikum is trying to deal with developing its own approach to land use planning. They're involved with the Ministry of Natural Resources to do that. In this particular project, they're using traditional knowledge, the knowledge of the elders about how you use the land, what the natural cycles are, where the various burial sites are and all those things that are traditional knowledge that First Nations people would know, but are not written down in any book somewhere at Queen's Park or in our archives. It allows us to make sure that we're able to bring in traditional knowledge in developing our parks.

The last part is to make sure that happens by putting on the parks management group somebody who is basically knowledgeable of the traditional values and is able to take part in the process right from the beginning.

The Chair: Questions and comments?

Mr. Orazietti: We will not be supporting the amendment. The amendment deals also with land use planning issues, and we don't feel that's within the purview of this act. The minister has made it clear that we're prepared to consult with First Nations and we're going to continue to do that. The minister is already doing that in a number of instances and we don't feel it's appropriate to bring these particular criteria into this bill.

Mr. Miller: I'd say the main complaint from the various First Nations groups we heard from was that they haven't been consulted; I think just about every group that presented to us stated that they were not consulted.

I'll ask a question of Mr. Bisson: I assume this is to do with new parks being created, not existing parks?

Mr. Bisson: Yes, new parks, but also, where we have existing parks and we're doing park planning, that we use traditional knowledge and we bring a First Nations person onto the team who has that knowledge.

The Chair: Further questions and comments?

Mr. Bisson: I'd just say to Mr. Orazietti, the problem is that if we have to rely on the whims of the minister—in this case, maybe David Ramsay's trying to do the right thing. I don't argue that for a second. But you may have at one point the current minister changing his mind, or a new minister changing their mind and saying, “I'm not going to live to that principle of first of all consulting with First Nations,” which they should do, according to the Supreme Court decision, but deciding not to involve First Nations as far as use of traditional knowledge. This puts it in the act. We're not talking about land use planning outside of the park. We're talking specifically in subsection (1.2)(c) about “a First Nation person with traditional ecological knowledge is included among the individuals who are charged with establishing”—and that is the key word—“the new provincial park or conservation reserve.” We're not talking about land use planning outside of the park; we're talking about the park.

Mr. Orazietti: Let's not forget that when we began this process, all three parties here agreed that we were going to have an amendment to this bill where we would respect the existing treaty rights of aboriginal peoples. Obviously, their input is going into this process. We're all consistent in our agreement with that, so this bill is not going to do anything to infringe upon those traditional treaty rights as they currently exist. It requires our consultation, obviously, if there's going to be an additional park created that may impact upon First Nations communities. Those are our comments, and we can't support the amendment.

Mr. Bisson: Well, a non-derogation clause and this section are two different things. Non-derogation clauses say that this park can in no way infringe upon aboriginal treaty rights. It is not an aboriginal treaty right to be consulted on the creation of a park. What you have is the Mikisew decision of the Supreme Court that says governments should consult; not “must,” but “should” consult. What we're trying to do by way of this particular amendment is a totally different thing, which is to say, “Let's

recognize that First Nations have a contribution to make when it comes to the development of a park plan in an area where they're affected."

For example, it seems to me to make ultimate sense that if we're going to have a park plan for the Polar Bear Provincial Park, who better to be on the park planning committee than people who are from the First Nation who live there? As Chief Mike Wabano said this morning, they've been there for hundreds of years. They understand the natural cycles of the land.

I was in Peawanuck a couple of weeks ago with one particular individual on the river, who was explaining some of the natural occurrences that happen to the landscape there because of the herds of caribou coming through, and basically how various flowers pollinate because of all of the stuff that goes on with birds and whatever else—I'm digressing. My point is, they understand this stuff because they've been doing it and they've been living it for hundreds and hundreds of years. What we're trying to do is say, please, let's make sure that we first of all consult when creating a new park and then put them on the park's planning committee so that they can use their traditional knowledge and we can benefit from that.

The Chair: Further questions and comments? Shall the amendment carry?

All those in favour? Opposed? I declare the amendment lost.

Mr. Bisson: Chair, can I ask for about a three-minute recess? I need to check on my mother for a second.

The Chair: The committee is in recess for three minutes, give or take.

The committee recessed from 1632 to 1633.

The Chair: Is everything okay?

Mr. Bisson: Yes.

The Chair: All right. Resuming consideration of amendments to section 8. Mr. Bisson.

Mr. Bisson: Subsection 8(3) of the bill: I move that subsection 8(3) of the bill be struck out.

This is fairly straightforward. It removes the ability of the Lieutenant Governor in Council to remove any area from a provincial park solely via regulation. It speaks to what I said before: We've either got a park or we don't have a park, but we should protect the integrity of the park. The best way to do that is to make sure that any changes to the boundaries have to come to the Legislature.

The Chair: Questions and comments?

Mr. Oraziatti: Only that we spoke to this previously and we won't be supporting it.

The Chair: Shall the amendment carry? I declare the amendment lost.

Amendments to section 8? Mr. Sergio.

Mr. Sergio: I move that subsection 8(3) of the bill be struck out and the following substituted:

"Disposition of land, less than 1% of the area

"(3) The Lieutenant Governor in Council may by order dispose of an area of a provincial park or conservation area that is less than 50 hectares or less than 1% of the

total area of the provincial park or conservation area, whichever is the lesser."

The Chair: Questions and comments?

Mr. Oraziatti: I think it's fairly straightforward. It lowers the threshold for deregulating portions of protected areas from 100 hectares to 50 and from 2% to 1%.

Mr. Bisson: Here's the game; this is how it's going to work: You want to all of a sudden float the boundary of the park at the north end, which you're going to be able to do, just add possibly additional—let's say that you want to get above the 1%; you want to move 2% or 3% out of the park. What the government is going to be able to do by way of this amendment is say, "I'm going to basically add a little bit of geography at another part of the park," and then, conversely, go and basically remove what they want at the other end of the park. In other words, increasing the size of the park 1% gets larger.

You're trying to make us believe that this is better, but at the end of the day we're still where we're at now. If you're trying to get the 2%, you can still do it with this particular amendment, because all you've got to do is increase the size of the park by whatever percentage you want somewhere else and basically have the same geographical area that you wanted to get in the first place. I just want to let you know, we know what you're up to, and this is not protecting parks. That's exactly what it is.

The Chair: Further questions and comments? Shall the amendment carry?

All those in favour? All those opposed? I declare the amendment carried.

Further amendments to section 8?

M. Bisson: Bonjour, monsieur le Président de notre comité. C'est donc un plaisir d'être ici avec vous aujourd'hui.

Subsection 8(4) of the bill: I move that the portion of subsection 8(4) of the bill before clause (a) be struck out and the following substituted:

"Disposition of land

"(4) The Lieutenant Governor in Council may not order the disposition of an area of a provincial park or conservation reserve unless"—and we'll get into the "unless" later.

The Chair: Questions and comments?

Mr. Bisson: It's the same argument that we've been making all along. We either have a park and we're going to protect it or we're not. That's really what it comes down to. We shouldn't play games, trying to pretend we're doing anything different. We either decide we're going to protect existing parks and that if there's going to be a change to the park boundary, you've got to come to the Legislature to get the change, or we play a game. The choice is yours.

The Chair: Further questions and comments? Mr. Oraziatti?

Mr. Oraziatti: No, Chair; we spoke to this—other than we're not supporting the amendment.

Mr. Bisson: So then, for the record, you're playing the game. Okay.

The Chair: Shall the amendment carry? I declare the amendment lost.

Amendments to section 8? Ms. Mossop.

Ms. Mossop: I move that that subsection 8(4) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“Disposition of land, 1% or more of area

“(4) The Lieutenant Governor in Council may not order the disposition of an area of a provincial park or conservation reserve that is 50 hectares or more or 1% or more of the total area of the provincial park or conservation reserve, unless,”

The Chair: Questions and comments? Shall the amendment carry?

All those in favour? All those opposed? I declare the amendment carried.

Amendments to section 8? Mr. Bisson.

Mr. Bisson: I move that subsection 8(5) of the bill be struck out and the following substituted:

“Exception

“(5) Despite subsection (4), the Lieutenant Governor in council may order the disposition of an area of a provincial park or conservation reserve if,

“(a) the disposition is made as part of a settlement of a claim in respect of aboriginal rights; or

“(b) the land being disposed of is being added to a national park under the Canada National Parks Act.”

It's fairly straightforward. This would basically mean to say that the Lieutenant Governor in Council wouldn't have the right to bring the disposition before the Legislature if they're adding land to a park or part of a park or First Nations land claim.

The Chair: Further questions or comments?

Mr. Oraziotti: We won't be supporting the amendment. We need the ability for land trades or swaps, for transference of land, and that's why we need the 1%/50 hectares. We won't be supporting it.

1640

The Chair: Further questions and comments? Shall the amendment carry?

All those in favour? All those against? I declare the amendment lost.

Amendments to section 8.

Ms. Mossop: I move that subsection 8(5) of the bill be struck out and the following substituted:

“Exception

“(5) Despite subsection (4), the Lieutenant Governor in Council may order the disposition of an area of a provincial park or conservation reserve that is 50 hectares or more or 1% or more of the total area of the provincial park or conservation reserve if,

“(a) the disposition is made as part of a settlement of a claim in respect of aboriginal rights;

“(b) the land being disposed of is being added to a national park under the Canada National Parks Act or a marine conservation area under the Canada National Marine Conservation Areas Act; or

“(c) the disposition is being made as part of a transaction that increases the size of the provincial park or conservation reserve and enhances ecological integrity.”

The Chair: Questions and comments?

Mr. Bisson: This partly does what we wanted to do in the previous amendment, and I'm of two minds on this one. What it does in (c) is basically close the loop on what I was explaining before: If you wanted to add land on the north end of the park, to be able to take land away from the south side of the park, this allows you to do it by regulation or ministerial approval—or the cabinet, I should say. If you're willing to strike out (c) and do it separately, I'd be prepared to support this, but (c) itself is the problem.

Mr. McMeekin: We don't want to play that game.

Mr. Oraziotti: Call the question, Chair.

Mr. Bisson: This is just awful hurling.

Mr. Oraziotti: Call the question. I've asked the question be called.

Mr. Bisson: Can I continue, or is the question being called?

The Chair: Questions and comments. You can continue.

Mr. Bisson: I just make the point, seriously, that part of what you're doing here I can support because it's somewhat where we wanted to go with our previous amendment, but I have a problem with the concept of saying, “We have a part, but it's not really a part.” So for example, if we want to take a piece of land of so many hectares in size out of the park in order to do something else, we can do it by adding land of another part of crown land into the park, and then basically rejigging the boundaries. That's the problem I've got. It's either we're going to have a parks act or we're not. That's my position. So if you're prepared to separate it, I will support the first part of the amendment.

Mr. Miller: I will be supporting this amendment. Sometimes there are valid reasons for making minor changes in parks. For example, in the case of Dokis First Nation, I was speaking with Mr. Moos, and he suggested that for their decision about wanting to generate electricity, one way of accomplishing it might be for them to take a very small part out of the park they're currently surrounded by to accomplish that goal that they have.

Mr. Bisson: I agree with Mr. Miller. There are cases where we would want to do that, but also it could be that a developer wants to develop something that is just inside a park, and you can do the very same thing. I'm saying that we either have a parks act or we don't.

The Chair: Further comments? Shall the amendment carry? Carried.

Shall section 8, as amended, carry? Carried.

Amendments to section 9.

Mr. Bisson: I move that clause 9(3)(c) of the bill be struck out and the following substituted:

“(c) shall include a management statement or a management plan.”

Just by way of explanation, management planning is central to achieving ecological integrity of the objective.

That's the objective of the act and should be mandatory for all parks and conservation reserves. What we would do by this is the bill would require MNR to prepare a management direction, but a management direction does not include a management statement or a management plan. The amendment would make it include in the statement the plan itself. It's fairly straightforward.

The Chair: Questions and comments?

Mr. Orazietti: Section 9(1): "The minister shall ensure that the ministry prepare a management direction that applies to each provincial park and conservation reserve." So we're not supporting this amendment.

The Chair: Shall the amendment carry? All those in favour? All those opposed? I declare the amendment lost.

Amendments to section 9.

Mr. Bisson: I move that subsection 9(4) of the bill be struck out and the following substituted:

"Management statement

"(4) A management statement is a document approved by the minister that provides a policy and resource management framework that,

"(a) identifies key natural and cultural heritage features and processes;

"(b) identifies current and expected internal and external impacts on ecological integrity; and

"(c) addresses a limited number of non-complex issues or proposals or both for limited capital infrastructure or resource management projects for one or more provincial parks or conservation reserves or for a combination of them."

This is following on the previous amendment that would change the definition of management statement and ensure that objectives of managing protected areas in terms of ecological integrity would be part of the planning for those parks.

The Chair: Questions and comments?

Mr. Orazietti: We're not supporting the amendment. Subsection 9(9): Reference to the minister being required, and the ministry to "prepare and make public" within two years that this is "in force, a planning manual to guide the preparation of management statements and management plans for provincial parks and conservation reserves."

The Chair: Further questions and comments? Shall the amendment carry? All those in favour? All those opposed? I declare the amendment lost.

Amendments to section 9.

Mr. Bisson: I move that subsection 9(5) of the bill be struck out and the following substituted:

"Management plan

"(5) A management plan is a document approved by the minister that provides a policy and resource management framework that,

"(a) identifies key natural and cultural heritage features and processes;

"(b) identifies current and accepted internal and external impacts on ecological integrity; and

"(c) addresses substantial and complex issues or proposals or both for substantial capital infrastructure or resource management projects for one or more provincial

parks or conservation reserves or for a combination of them."

This follows the previous amendment; basically, the same argument.

The Chair: Just for clarity, on statement (b), you meant to read "identifies current and expected," correct?

Mr. Bisson: I meant "expected." Excuse me. I stand corrected. Thank you for being vigilant.

The Chair: Questions and comments?

Mr. Orazietti: We're not supporting it for the same reason previously stated.

The Chair: Questions and comment? Shall the amendment carry? All those in favour? All those opposed? I declare the amendment lost.

Shall section 9 carry? Carried.

Section 9.1.

Mr. Bisson: I move that the bill be amended by adding the following section:

"Provincial park and conservation reserve planning, First Nation involvement

"9.1 In addition to the requirements set out in section 9, the minister shall ensure that in creating each management direction and management plan,

"(a) opportunities for co-management with local First Nation communities are considered;

"(b) traditional ecological knowledge of First Nation peoples is considered; and

"(c) a First Nation person with traditional ecological knowledge is included among the individuals who are charged with preparing the management direction or management plan."

Again, it's fairly straightforward. We're either serious about involving First Nations or not. Mr. McMeekin can roll his eyes and think it's not important, but if you live in Pikangikum or Winisk or many of the other communities, this is a very serious issue.

First Nations have been traditional caregivers, have been traditionally responsible for caring for this land for a millennium. They've done a fairly good job of it. It's still there. It was pristine when we got here. What they want to do is to be partners in their own destiny, that first of all we make sure there is an opportunity for First Nations to co-manage parks. Why not do that in the case of Polar Bear Provincial Park? They're the only people there. There's nobody else living in or around Polar Bear Provincial Park but First Nations. Why wouldn't we involve them in the co-management of the park? Under (b), "traditional ecological knowledge" would be used or considered.

It only makes ultimate sense. They've been there for centuries. They understand the land. Why wouldn't we want to bring that into our parks planning and make sure they're part of that? We're asking the government to support this. This is one that we feel very strongly about, and would ask you, if there's one amendment you can support, this is one that you would seriously give some consideration to.

1650

The Chair: Questions and comments?

Mr. Orazietti: We won't be supporting the amendment. Subsection 9(9) clearly indicates that the planning manual be developed. We expect to be consulting anyone who will be impacted by the development of parks or planning for parks. Those are our comments.

Mr. Bisson: That's currently what the parks manual says now, and the problem is that it doesn't happen. As you well know—you're from northern Ontario; you understand this stuff as well I do—there are many First Nations that have had parks created around them. First of all, they never found out, but when they found out, they said, "We want to be at the table. If you're going to create this park, make us part of the process of how we manage that park." I don't think it's something that's all that much of a leap to do. They're human beings. They understand the territory. Why, in God's name, would we not want to consult and work with them in the management of those parks?

The Chair: Further questions and comments? Shall the amendment carry? All those in favour?

Mr. Bisson: Recorded vote.

Ayes

Bisson.

Nays

McMeekin, Miller, Mossop, Orazietti, Sergio.

The Chair: I declare the amendment lost.

Mr. Sergio: When a recorded vote is requested, can that request be made prior to the call being made for a vote?

The Chair: A recorded vote is normally requested when the question is put.

Mr. Sergio: Yes, and a recorded vote should be made when the vote is being called, not afterwards.

Mr. Bisson: On that point, how would I know to call a recorded vote unless I know if you say "aye" or "nay." I can't call for the recorded—

Mr. Sergio: It doesn't matter if it's yes or no. If you want a recorded vote, you call for a recorded vote.

Mr. Bisson: You've been in the Legislature how long, Mario? Come on. Jeez.

The Chair: Order. Mr. Bisson's call for a recorded vote was made pursuant to the standing orders and was in order.

Mr. Sergio: Not after the fact.

The Chair: Section 10: Amendments.

Interjection.

Mr. Sergio: Gilles, come on. Don't play games.

Mr. Miller: I move that subsection 10(2) of the bill be struck out and the following substituted:

"Report contents

"(2) The reports shall provide a broad assessment of the extent to which the objectives of provincial parks and

conservation reserves, as set out in this act, are being achieved, including ecological and socio-economic conditions and benefits, the degree of ecological representation, number and area of provincial parks and conservation reserves, threats to ecological integrity and ecological health and socio-economic benefits."

Six words are changed in this amendment. They are: "as set out in this act." It's a change requested by the Ontario Forest Industry Association to clarify that the report shall deal with the objectives very specific to this act, the Provincial Parks and Conservation Reserves Act, 2006.

The Chair: Further questions and comments?

Mr. Orazietti: We won't be supporting this motion. The following motion is similar but not identical. In this case, we won't be supporting the one that's presented.

Mr. Miller: Similar but not identical?

Mr. Orazietti: The point being that this morning when we had this discussion, if we voted down an opposition motion that was identical to ours, our motion would be lost. In this particular case, that doesn't seem to be the issue, so we're not going to be supporting it, because it isn't the same.

Mr. Bisson: It's a different motion.

The Chair: Let's leave the splitting of semantic points.

Mr. Orazietti: May I clarify—

Mr. Miller: Does your motion accomplish the same as this is going to accomplish?

Mr. Orazietti: In effect, the spirit is the same.

Mr. Bisson: You'd better read it.

Mr. Miller: What number is your—

Mr. Bisson: The next one.

The Chair: Further questions and comments? Mr. Bisson?

Mr. Bisson: No. I'll let the PC amendment—they can argue it.

The Chair: Shall the amendment carry? All those in favour? All those opposed? I declare the amendment lost. Further amendments to section 10.

Mr. Sergio: I move that subsection 10(2) of the bill be struck out and the following substituted:

"Report contents

"(2) The report shall provide, but shall not be limited to, a broad assessment of the extent to which the objectives of provincial parks and conservation reserves, as set out in this Act, are being achieved, including ecological and socio-economic conditions and benefits, the degree of ecological representation, number and area of provincial parks and conservation reserves, known threats to ecological integrity of provincial parks and conservation reserves and their ecological health and socio-economic benefits."

The Chair: Questions and comments? Shall the amendment carry? Carried.

Mr. McMeekin: I move that section 14 of the bill be amended by adding the following subsection—

The Chair: Hold on, don't get ahead of the Chair yet. Shall section 10, as amended, carry? Carried.

May I have unanimous consent to consider sections 11, 12 and 13 as a block? Carried.

Shall sections 11, 12 and 13 carry? Carried.

Section 14 amendments. Mr. McMeekin.

Mr. McMeekin: I move that section 14 of the bill be amended by adding the following subsection:

“Hunting, exception Algonquin park

“(1.1) Despite subsection (1) and the repeal of The Algonquin Provincial Park Extension Act, 1960-61, hunting is permitted on the public lands in the geographic townships of Bruton and Clyde that were added to Algonquin Park by section 1 of The Algonquin Provincial Park Extension Act, 1960-61.”

The Chair: Questions and comments?

Mr. Miller: I know this is an amendment that the Ontario Federation of Anglers and Hunters were asking for, to recognize activities that have been going on in recent years, so I will be supporting it.

The Chair: Shall the amendment carry? Carried.

Shall section 14, as amended, carry? Carried.

Section 14.1: Mr. Miller.

Mr. Miller: I move that the bill be amended by adding the following section:

“Trapping in provincial parks and conservation reserves

“14.1(1) A person may trap in a provincial park or a conservation reserve in accordance with the Fish and Wildlife Conservation Act, 1997.

“Entry without charge

“(2) A person who holds a licence to trap under the Fish and Wildlife Conservation Act, 1997 in a trapline area that is situated in a provincial park or conservation reserve or a person authorized by the licence holder may, without charge, enter the provincial park or conservation reserve and operate a vehicle or a boat anywhere in the provincial park or conservation reserve, but only to the extent that it is necessary in order to access the trapline area for the purpose of trapping.

“Existing trapline trails continued

“(3) Trapline trails within a provincial park or conservation reserve that exist on the day this section is proclaimed in force may continue to be utilized and maintained by a person who holds a licence to trap under the Fish and Wildlife Conservation Act, 1997 or a person authorized by the licence holder, but only to the extent that it is necessary in order to access the trapline area for the purpose of trapping.

“Existing trapline buildings

“(4) Trapline buildings on land within a provincial park or conservation reserve that exist on the day this section is proclaimed in force may continue to be occupied, maintained, repaired and replaced.”

The Chair: Questions and comments?

Mr. Oraziatti: This issue is, in part, regulated by the Fish and Wildlife Act, and while there are many permitted uses in our parks, such as ATVs or fishing, a whole range of activities that take place, this would be singling out one specific activity to be put into the act.

This is going to be dealt with in regulation and policy, so we're not going to be supporting this amendment.

Mr. Miller: I hope the government is going to recognize the activities that are currently going on. I was asked to put this forward by the Ontario Fur Managers. I would note that there is a long history of trapping within provincial parks and conservation areas, and that trapping in Ontario is heavily regulated, with many requirements. I would also like to point out that trappers are often the first to notice and sound the alarm when there are changes happening with fur-bearing animals and populations begin to decline because of disease, for example. So I think Ontario's trappers are very much the original, and still practising, conservationists.

1700

I hope that if you're not going to support this amendment, you will, in regulation, recognize the existing trapping operations that are going on in conservation reserves and parks and allow them to continue, including the access required by trappers to get in to their traplines. I note that currently there are 36 registered traplines in Algonquin park. There's trapping in the majority of Ontario's parks and conservation reserves at this time. I hope you will recognize that.

Also, just doing recreational reading, I happened to be reading a book called *Along the Trail* with Ralph Bice in Algonquin park. Ralph Bice is no longer with us, but he spent 60 years guiding in Algonquin park, and his grandfather was one of the first trappers on the west side of Algonquin park; he happened to be from Kearney in my riding. So I'm reading it with interest and noting some of the history of the trapping activities that have gone on for a long time.

The Chair: Questions and comments? Mr. Oraziatti?

Mr. Oraziatti: No further comments.

The Chair: Shall the amendment carry? All those in favour?

Mr. Miller: Recorded vote.

Ayes

Miller.

Nays

McMeekin, Mossop, Oraziatti.

The Chair: I declare the amendment lost.
Section 15: Amendments to section 15.

Mr. McMeekin: Did you want to approve section 14, as amended?

The Chair: We did that. Section 14, as amended, carried.

Mr. McMeekin: Okay. We're in your hands, Mr. Chairman.

I move that subsection 15(2) of the bill be amended by striking out “16 to 18” in the portion before the definitions and substituting “16 to 19” and by striking out the definition of “prospecting” and substituting the following:

“‘prospecting’ means the investigating of, or searching for, minerals for the purpose of developing mineral interests. (‘prospection’)”

The Chair: Questions and comments?

Mr. Miller: Just an explanation of why you’re making this minor definition change would be good.

Mr. Orazietti: The purpose is to ensure scientific purposes are considered in making it consistent with the Mining Act.

The Chair: Questions and comments? Shall the amendment carry? Carried.

Shall section 15, as amended, carry? Carried.

Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Section 18: Amendments.

Mr. Sergio: I move that subsection 18(1) of the bill be struck out and the following substituted:

“Exception, existing hydroelectricity generation sites

“18(1) Despite section 15, facilities for the generation of electricity located in a provincial park or conservation reserve that exist on the day this section is proclaimed in force may continue to operate and be maintained and, with the approval of the minister, may be improved, re-built or altered.”

The Chair: Questions and comments? Shall the amendment carry? Carried.

Amendments to section 18.

Mr. Miller: I move that section 18 of the bill be amended by adding the following subsection:

“Exception, First Nations

“(2.1) Despite section 15, First Nations may develop facilities for the generation of electricity in provincial parks and conservation reserves for use within their communities and may sell surplus electricity, if any, to the IESO-controlled grid.”

The Chair: Questions and comments?

Mr. Orazietti: This proposed amendment does give us some cause for concern, although I appreciate why the member is bringing it forward. We’re prepared to work with First Nations, as we have said and as we are currently doing, on a case-by-case basis for development of hydroelectric resources. Presently, the position is that if they’re off grid, we’re looking for that type of development to allow communities to be self-sufficient. But what we don’t want is to open it up so it’s open season on park development for hydroelectric projects.

By application there’s an opportunity to deregulate or separate from a provincial park a section of that park to be developed for the purposes of hydroelectricity. We’re certainly prepared to deal with that on a case-by-case basis but we don’t want to, at this point in time, leave it open-ended where individuals and developers may perceive this to be—and it certainly would be, in the government’s mind, the wrong message to be sending to the province that it’s open season on development of hydroelectric resources in park areas. For that purpose, we’re not supporting it, but we are mindful of the concern and the origins by which Mr. Miller is raising this issue.

Mr. Miller: The reason I put this amendment forward is that we heard from the Dokis First Nation, which is on the French River in the northern part of my riding. For that First Nation, the economic opportunities are few and far between. They have forestry south of their reserve. They need access across the park to access the crown timber to get to the forestry operations they have. They have challenges there, I might add, with the state of some of the bridges, to be able to carry out the work that they’re doing. Also, there are existing dams and potential for generating some economic activity for the Dokis First Nation by generating electricity. There are already existing structures there. The federal government is involved as well.

If you’re going to vote down this amendment, all I would ask of the government is that you work with Dokis First Nation specifically—

Mr. Orazietti: Absolutely.

Mr. Miller: —because it’s really one of the few ways that they can generate some economic activity that they very much need. And they are on the grid. They aren’t that remote. As I said, they are on the French River.

We also heard from some more remote First Nations that also see potential. Maybe Mr. Bisson will speak to this, because I think some of them are in his riding. They also came to the committee and raised concerns about having their economic opportunities. When you get into the far north, the opportunities for some of these locations are few and far between, so we need to be mindful of that.

The Chair: Mr. Bisson?

Mr. Bisson: I think Mr. Miller has summed it up quite well.

The Chair: Shall the amendment carry?

All those in favour? All those opposed? I declare the amendment lost.

There has been a PC amendment filed relating to the definition of “First Nation.” Legislative counsel advises that we have earlier defined “First Nation” and therefore that amendment is out of order.

Interjection.

The Chair: You’ve got to take yes for an answer.

Mr. Bisson: I take yes for an answer all the time.

The Chair: Shall section 18, as amended, carry? Carried.

Consideration of section 19.

Mr. McMeekin: I move that paragraph 2 of subsection 19(1) of the bill be amended by striking out “timber” and substituting “crown timber”.

1710

The Chair: Questions and comments?

Mr. Bisson: Mr. McMeekin, if you can explain that one.

Mr. McMeekin: I yield to my esteemed colleague.

Mr. Bisson: I thought I’d try.

Mr. McMeekin: The difference between timber and crown timber?

Mr. Bisson: No, no. Why you're putting it in. I know the difference between the two, but I want to see if you know why you're doing it.

Go ahead, Mr. Orazietti. Please.

Mr. Orazietti: I appreciate the opportunity to clarify this. You never know whether or not Mr. Bisson is being serious in his questions. The issue is with respect to crown timber, and the point is that we're not using roads and trails to cross parks for access to private timber. That's the purpose of it.

Mr. Bisson: I just wanted to see if Mr. McMeekin was okay with that.

The Chair: Shall the amendment carry? Carried.

Amendments to section 19.

Mr. Miller: I move that subsection 19(1) of the bill be amended by adding the following paragraph:

"3. Roads and trails that provide access to conservation reserves on the day this act is proclaimed in force continue to exist to support ecologically sustainable recreation."

This is about clarity regarding access to conservation reserves, and it's something that the Ontario Federation of Anglers and Hunters is quite concerned about and has been asking for this amendment. I would also like to get on the record that they were assured by the minister that the status quo would remain, and I think this amendment maintains the status quo.

Mr. Orazietti: The government recognizes the comments from Mr. Miller with regard to this and the industry. Page 22 in the package, subsection 19(6), will provide further elaboration on this and do that in spirit. It just gives more detail in our amendment. We won't be supporting this particular amendment, but hopefully the member will recognize that an amendment that will be coming here on page 22 of the package will address that concern.

The Chair: Further questions and comments?

Mr. Miller: Recorded vote.

Ayes

Bisson, Miller.

Nays

Mossop, Orazietti, Sergio.

The Chair: I declare the amendment lost.

Amendments to section 19.

Ms. Mossop: I move that section 19 of the bill be amended by adding the following subsection:

"Definition

"(6) In this section,

"resource access roads and trails' means roads or trails constructed for or used to support,

"(a) timber harvest, or

"(b) prospecting, staking mining claims"—

The Chair: Hold on.

Ms. Mossop: Am I one ahead?

The Chair: I think you may be a little ahead of us. Try page 21.

Ms. Mossop: Oops. I'm getting ahead. Sorry. I'm a step ahead of you.

The Chair: Okay. Let's start over again.

Ms. Mossop: Not that I'm anxious or anything.

I move that subsection 19(4) of the bill be struck out and the following substituted:

"Existing roads, etc.

"(4) Authorized resource access roads and trails and utility corridors in provincial parks or conservation reserves that exist on the day this section is proclaimed in force,

"(a) are deemed to comply with the policies under this act and to have the approval of the minister; and

"(b) are not subject to subsection (3)."

The Chair: Questions and comments?

Mr. Miller: Just if you can clarify how that's different from what's in the—

Mr. Orazietti: On the day that it is proclaimed, the purpose is to not close down existing forestry or mining roads within parks, and allow those existing uses that some of the groups that made presentations are interested in seeing continue.

Mr. Miller: Can you tell me if this affects recreational trails or trails that might be used by a trapper or—

Mr. Orazietti: It'll continue to allow existing uses, absolutely.

Mr. Bisson: What does it do about rehabilitation, as far as the roads themselves?

Mr. Orazietti: Nothing further.

Mr. Bisson: I had a question to Mr. Orazietti; I'm sorry. I guess I've got two questions. First one: Are existing roads being exempted from rehabilitation with this particular section?

Mr. Orazietti: Existing are, but ones that are in the future may be remediated again back to park or wilderness.

The Chair: Further questions or comments?

Shall the amendment carry? Carried.

Amendments to section 19.

Mr. Sergio: I move that section 19 of the bill be amended by adding the following subsection:

"Definition

"(6) In this section,

"resource access roads and trails' means roads or trails constructed for or used to support,

"(a) timber harvest, or

"(b) prospecting, staking mining claims, developing mineral interests or working mines,

"but does not include roads or trails constructed for or used for recreational purposes or other resource access purposes."

The Chair: Questions and comments?

Mr. Miller: An explanation, please.

Mr. Orazietti: This is addressing the concern raised by the OFAH around prohibiting resource access roads except for mining and logging. It will allow those activities to continue consistently.

Mr. Bisson: I notice you leave the word “crown” out of “timber,” which is a bit off what you did in your previous amendment. I’m just wondering if that’s on purpose or an oversight. Can we just double-check with staff to see? I’m just curious, if anybody knows the answer to that question.

Mr. Orazietti: Very good for clarification—page 22, clause 6(a) where it says “timber harvest,” the reference is whether it should be “crown timber harvest.”

Mr. Bisson: I’m just curious. Should it have been “crown”?

Mr. Orazietti: Right.

Mr. Bisson: So now we’re in a position where we’d like to put the word “crown” in front of “timber,” right? Because it’s inconsistent with what you did in the other section. Just to let you know I’m paying attention. You’re glad I’m here. I do things to help you.

Mr. Orazietti: What would we do without you? The government will make an amendment if it’s acceptable to opposition members.

Mr. Bisson: You can ask for unanimous consent.

Mr. Orazietti: Unanimous consent that clause 6(a) read, “crown timber harvest.”

Mr. Albert Nigro: My name is Albert Nigro. I’m from the office of legislative counsel and I have a role in keeping at least the motions and what happens to the legislation somewhat in order. What I think you need to do is to move a motion to amend the motion, and I need to write that out.

Mr. Bisson: That’s what he was doing.

Mr. Nigro: Yes, but I haven’t written it out and you do need to do it that way, so that when it’s reported back to the House, the record shows what happened at the committee.

Mr. Bisson: We’re amenable. Whatever way you want to do it.

The Chair: Do we have a motion to amend the motion?

Mr. Orazietti: So moved, Chair. Do you want to come back to that?

The Chair: Mr. Orazietti moves that the word “crown” be added before “timber harvest” in clause 19(6)(a).

Mr. Orazietti: Correct.

The Chair: Shall the motion to amend—we will recess momentarily while the clerk gets some copies.

The committee recessed from 1717 to 1728.

The Chair: Before we recessed, we were considering a motion by the government to amend section 19. We had discussed whether or not a motion to amend the motion might be appropriate. Mr. Orazietti.

Mr. Orazietti: It appears at this point that it is not necessary to amend further the original amendment that is in the package, page 22. The reference to crown timber was added and has been passed as a limitation. This is a definition that does not need to be changed at present, so we’re fine with the motion as presented.

The Chair: Comments?

Mr. Bisson: Interesting. I just point to the following: The amendment we did two or three amendments ago

amended paragraph 2 in section 19. That was dealing with resource access roads—that whole section 19 is about resource access roads—specifically, resource access roads and utility corridors. Previously, you amended paragraph 2. You had, “Roads and trails that are required to access minerals or timber outside of a provincial park,” and you added the word “crown.” As I understood it, it was to prevent—let’s say you have crown land, you have a park that’s here, and next to it you have private land. What you wanted is that you couldn’t have private timber coming from private land go across the park. As I understand it, that’s what that paragraph 2 was all about, correct? That’s what you were trying to get at.

Interjection.

Mr. Bisson: Okay. The reason I flagged it is because as I look at what you’re doing with this particular amendment, you’re putting a definition within that particular section 19, and in that definition you’re saying, “‘Resource access roads and trails’ means roads and trails constructed for or used to support ... timber harvest.” It seems to me that if you just say “timber harvesting,” it leaves it open that you can use the access corridor to haul that private timber across the park if you don’t put “crown” in front of it in this section. I know there was some consternation by the lawyers, because some lawyers agree with me and some don’t, so that kind of puts us—well, maybe now they’ve changed their minds. Can you please come and explain it so that I clearly understand? Are we still talking about the corridors?

Interjection.

Mr. Bisson: You guys can get all excited over there if you want, but this is—

Mr. McMeekin: Who’s excited? We’ve got all day.

Mr. Bisson: Good, we’ve got all day. That’s exactly the point.

The Chair: Is staff needed to provide an explanation to Mr. Bisson’s question? If so, please come forward, sit down and introduce yourself.

Mr. Bisson: I wouldn’t mind an explanation just to understand the logic of where you’re coming from, if we could have one of the legal people come and explain that. I guess my question is, if you’re going to put a definition clause in 19 and talk about a definition that deals with timber, doesn’t that include crown and private timber? Explain to me the rationale.

Ms. Lintell: Krystine Lintell, counsel, Ministry of Natural Resources. When we reflected further on the section, specifically the limitation that was imposed earlier in subsection (1)—which I have to find again.

Mr. Bisson: You just put the word “crown” in front of “timber.”

Ms. Lintell: Yes, we added the word “crown” in front. If you look at what subsection 19(1) currently says, it says, “Subject to the policies of the ministry and the approval of the minister, with or without conditions, resource access roads and trails for non-provincial park and conservation reserve uses in provincial parks and conservation reserves are permitted in the following circumstances....” We amended that in order to ensure

that they're permitted in circumstances where it's the harvest of crown timber as opposed to privately owned timber.

Mr. Bisson: We're in agreement.

Ms. Lintell: All right. If you look, we just talk about resource access roads and trails, so by definition we're saying that these are roads that mean roads or trails constructed for timber harvest. But the only ones permitted are the ones that are for the purpose of harvesting crown timber, so the definition does not come into play in terms of the permitted use. The use of a road to access timber that is not crown timber would remain prohibited.

Mr. Bisson: Okay, but let me just ask you—you might be right, but I'm still having a bit of a hard time with that. What you're doing in this specific section 19 is putting in a definition; I hear exactly what you're saying with 19(1). So what you're arguing is that these are the prohibitions in the first part of it, right?

Ms. Lintell: That's correct.

Mr. Bisson: If you put this in the definition, and it says, "Resource access roads and trails' means roads and trails constructed for or used to support ... timber harvest," wouldn't that then allow you to transport private timber across that trail?

Ms. Lintell: No.

Mr. Bisson: Because you figure that the prohibition catches it?

Ms. Lintell: Because the prohibition catches it, that's right. This is a definition section that basically provides—we wanted to ensure that recreational purposes or other resource access purposes were not captured.

Mr. Bisson: But if the definition of timber is not crown timber, isn't paragraph 2 a bit of a moot point?

Ms. Lintell: Not really.

Mr. Bisson: If I have a definition clause and my definition clause says, "This is what this means," it's fairly clear that's what you want it to mean. It seems to me now that we're contradicting ourselves in the prohibition part of the legislation.

Interjection.

Mr. Bisson: What is the matter with you, Mario? If you've got to go home, go. We'll do it without you.

Interjections.

The Chair: Order. In questions and comments, Mr. Bisson is entitled to ask his questions.

Mr. Bisson: My question is that if you put it in the definition clause, doesn't it then run counter to what is in the prohibition? You're saying not? All right. I guess we have a difference of opinion.

The Chair: Shall the amendment carry? All those in favour? All those opposed? I declare the amendment carried.

Shall section 19, as amended, carry? All those in favour? All those opposed? I declare section 19, as amended, carried.

Section 20: Amendments.

Mr. McMeekin: I move that the portion of subsection 20(1) of the bill before paragraph 1 be struck out and the following substituted:

"Conditions for approval

"20.(1) In approving the development of a facility for the generation of electricity under subsection 18(3) or (4) or approving a resource access road or trail or a utility corridor under section 19, the minister must be satisfied that the following conditions are met:"

The Chair: Questions or comments?

Mr. Miller: Yes. Maybe you could explain what the purpose of this amendment is.

Mr. Oraziotti: Concern around lowest cost not being the overriding justification, we want to allow, obviously, that the cost of development for electricity and use could be a factor. We're supportive of the amendment that would allow for that.

Mr. Bisson: If I can have the lawyer come back, I have a question, just so that I'm clear on something. In the operation of a power dam, they have to have a water management plan, right?

Ms. Lintell: Yes.

Mr. Bisson: So does this in any way infringe on that water management plan or have any effect on it?

Ms. Lintell: No.

Mr. Bisson: Okay. I want it for the record.

The Chair: Shall the amendment carry? Carried.

Shall section 20, as amended, carry? Carried.

Section 21: That would be Mr. McMeekin.

Mr. McMeekin: I move that subsection 21(1) of the bill be struck out and the following substituted:

"Work permits

"21.(1) Except in accordance with the terms and conditions of a work permit issued under this act, no person shall, in a provincial park or conservation reserve, cause or permit,

"(a) the construction, expansion or placement of any building, structure or thing;

"(b) the construction of any trail or road;

"(c) the clearing of any land;

"(d) the dredging or filling of any shore lands; or

"(e) any activity permitted under section 16, 17, 18 or 19 that causes, results or is expected to result in a major disruption or impairment of the ecological integrity of a provincial park or conservation reserve."

The Chair: Questions or comments?

Mr. Bisson: Just a question to Mr. Oraziotti. This is new to me. Does it mean, if that section had not been amended, that somebody could have actually done work without a permit?

Mr. Oraziotti: There is a concern around the enforcement of that. We expect that within the parks those permits and the criteria or specifics under which they are conducting work will be within that framework, and anything that's outside would be in violation. So this is the accountability portion of issuing those work permits.

Mr. Bisson: Because basically all you're adding in the previous section are the terms and conditions of, right? So it just makes it clearer. OK, I get what you're doing.

The Chair: Shall the amendment carry? Carried.

Shall section 21, as amended, carry? Carried.

Amendments to section 22. Mr. Sergio.

Mr. Sergio: I move that section 22 of the bill be amended by striking out “provincial parks” and substituting “provincial parks or conservation reserves”.

The Chair: Questions or comments?

Shall the amendment carry? Carried.

Shall section 22, as amended, carry? Carried.

Shall section 23 carry? Carried.

Section 24: That would be Ms. Mossop.

1740

Ms. Mossop: I move that subsection 24(1) of the bill be struck out and the following substituted:

“Gifts

“24.(1) The minister may receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest in property, to support research, monitoring, education or any other related purpose in respect of a provincial park or conservation reserve.”

The Chair: Questions or comments?

Mr. Bisson: It's something, but it's not quite where we wanted to go. We were asking earlier in our amendments to deal with the whole issue of making parks the area where you can study the science of managing parks. I take it what this does is allow, if a benefactor would want to endow the park with some funds in order to do that, that it could be done voluntarily. That's basically all you're getting at here.

Mr. Oraziotti: Right.

Mr. Bisson: Well, it doesn't go where I want to go, but it gets me partway there, so I guess I'll be magnanimous. Christmas has come early. I'll support your amendment.

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 24, as amended, carry? Carried.

Shall section 25 carry? Carried.

Section 26.

Mr. McMeekin: I move that paragraph 4 of subsection 26(1) of the bill be struck out and the following substituted:

“4. All other revenues generated by provincial parks.”

The Chair: Questions or comments?

Mr. Bisson: I'm sorry; I should have paid closer attention. Maybe you can explain, Mr. Oraziotti.

Mr. Oraziotti: It simply ties the two of those together and includes other revenues generated by provincial parks that could be used for special purposes.

Mr. Bisson: Okay. Thank you.

The Chair: Shall the amendment carry? Carried.

Shall section 26, as amended, carry? Carried.

Shall section 27 carry? Carried.

Section 27.1.

Mr. Sergio: I move that the bill be amended by adding the following section:

“Collection of personal information

“27.1 The minister may collect personal information within the meaning of the Freedom of Information and Protection of Privacy Act for the purposes of this act.”

The Chair: Questions and comments?

Shall the amendment carry?

Mr. Bisson: Hang on; whoa.

The Chair: Sorry.

Mr. Bisson: It's your call, Chair; I came in under the line. It's your call.

The Chair: Shall the amendment carry? Carried.

Shall section 28 carry? Carried.

May I have unanimous consent to consider sections 29 through 43, inclusive?

Mr. Bisson: Whoa.

The Chair: There are no amendments. Block consideration of sections 29 through 43, inclusive.

Mr. Oraziotti: So moved, Chair.

The Chair: Shall sections 29 through 43, inclusive, carry? Carried.

With one stroke, you've just done a big chunk of the work.

Section 44.

Mr. Sergio: I move that clause 44(1)(b) of the bill be amended by striking out “21(2) or (4)” and substituting “21(1) or (4)”.

The Chair: Questions and comments?

Mr. Miller: Just an explanation, please.

Mr. Oraziotti: It's basically a technical amendment to correct the subsection reference numbers. Section 44 defines what constitutes an offence under the bill, and 22(2) is not an offence whereas 21(1) is supposed to be. So it's technical in nature.

The Chair: Further comments? Shall the amendment carry? Carried.

Shall section 44, as amended, carry? Carried.

May I have unanimous consent for block consideration of sections 45 through 49, inclusive? Agreed.

Shall sections 45 through 49, inclusive, carry? Carried.

Section 50.

Ms. Mossop: I move that subsections 50(1) and (2) of the bill be struck out and the following substituted:

“Penalty

“50. (1) A person convicted of an offence under this act or the regulations is liable,

“(a) for a first offence, to a fine of not more than \$50,000, to imprisonment for a term of not more than one year, or to both; and

“(b) for a second or subsequent offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than one year, or to both.

“Commercial offences

“(2) Despite subsection (1), a person convicted of an offence under this act or the regulations is liable,

“(a) for a first offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than two years, or to both, if the offence was committed for commercial purposes; and

“(b) for a second or subsequent offence, to a fine of not more than \$200,000, to imprisonment for a term of not more than two years, or to both, if the offence was committed for commercial purposes.

“Penalty re monetary benefit

“(2.1) The court that convicts a person of an offence under this act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided.”

The Chair: Questions and comments?

Mr. Bisson: Just one question: I think I know the answer, but in the case of a commercial offence, if it's a corporation, who would have to do the jail time if the fine was not paid? Would it be the directors? How does that work? I'm just curious about how it works with other acts, if I can get the lawyers? It's just for knowledge; I have no idea how that works.

Mr. McMeekin: It's anyone who was on the ice at the time.

Mr. Bisson: Does anybody know the answer to that question?

The Chair: If so, please come forward.

Mr. Bisson: Legislative counsel knows; it looks like he does. I'm just curious. How would that work?

Mr. Nigro: Many years ago, I did some prosecutions. If you prosecuted a body corporate, a legal person as opposed to a natural person, they are liable to a fine; they are not liable to imprisonment. You can't imprison a corporation. The only way you could get a term of imprisonment against an individual, director or officer of a corporation is if the statute permitted that they could be charged as a director or officer, they were then convicted, and the sentencing justice of the peace or provincial court judge decided to impose a term of imprisonment.

Mr. Bisson: Then my understanding is correct: Under this particular section, if I'm an individual business, where I'm the sole owner and I'm the one who's done the offence, you could imprison me. Is that correct, leg. counsel?

Mr. Miller: In a sole proprietorship.

Mr. Bisson: In a sole proprietorship?

Mr. Nigro: If you are charged as an individual, yes; if you're charged as a corporation, no. There's a legal difference between you as an individual, as the sole proprietor, and you as the individual who owns the entity. If you own it as the corporation and that corporation is charged and convicted, it's the corporation that's liable to the penalty. Legally, you're not the same person.

Mr. Bisson: I'm trying to figure this out. Let me ask the question so that I'm clear. I own a skidder, all right? It's my skidder; that's how I make my living. If I go in the bush, if I wander into the park and say, “Oh, look at those big trees I can go and get,” and I get charged, in

that case I'm an individual who went in with my skidder to make some bucks. Can I go to jail?

Mr. Nigro: If you're charged as an individual, yes.

Mr. Bisson: If I was working for someone as a corporation and went out and did it—I could be charged as an individual if I did it on my own and just used the company's equipment, but if I was directed to go and do it, then who would be liable? No one, right?

Mr. Nigro: No. The decision as to who is liable in law when the matter would be investigated—and this happened all the time when I was prosecuting. There was always the decision of whether you charged the individual, the supervisor or the corporation, just because of the statute under which I did my prosecutions. In that case, in the example you just gave, depending on the way the statute is written, the individual who went into the forest and illegally harvested things could be charged as an individual. If he was working for a corporation, the corporation can be charged, and indeed both of them could be charged.

Mr. Bisson: But in the case of the corporation, they would not go to jail; you couldn't put a corporation in jail. So what does the commercial offences do then? Give me an interpretation, Mr. Nigro.

Mr. Nigro: Basically, it allows for a greater monetary penalty to be imposed on the corporation.

Mr. Bisson: That's the long and the short of it. The imprisonment thing really doesn't mean anything, right?

Mr. Nigro: Subsection (2.1) doesn't reference anything about imprisonment.

1750

Mr. Bisson: Maybe I misread it. It says: “(a) for a first offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than two years....”

Mr. Nigro: I'm sorry, I misunderstood your question. You said, “greater monetary benefit”: That's subsection (2.1). It's on the next page and it doesn't refer to imprisonment. In terms of a greater or subsequent offence, the penalty to a corporation is merely a fine; it is not imprisonment.

Mr. Bisson: So I did understand it correctly. Thank you.

Mr. Miller: To clarify that further, under “Commercial offences,” it is talking about imprisonment under point (a): “for a first offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than two years....” That would be somebody involved in a commercial business, but it's not a corporation.

Mr. Nigro: I'm sorry, I'm not sure which section you're referring to.

Mr. Miller: “Commercial offences,” clause (2)(a).

Mr. Nigro: I see what you're saying. What was your question again?

Ms. Mossop: Clause 2(a) refers to a person—

Mr. Miller: So it's a commercial offence, but it's a person.

Mr. Nigro: Yes, but a “person” in law includes a legal person, i.e., a corporation. So if a corporation is charged here, the increased penalty would be the increased fine. If a natural person or an individual is charged, the increased penalty would be an increased fine or possibly an increased term of imprisonment.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Shall section 50, as amended, carry? Carried.

Shall section 51 carry? Carried.

Section 52.

Ms. Mossop: I move that subsection 52(2) of the bill be amended by adding the following clause:

“(j) governing travelling by mechanized means in wilderness class parks.”

The Chair: Questions and comments?

Mr. Miller: I’d certainly like an explanation. I assume this means an exception can be made to the amendment I was talking about previously to allow for disabled people or those in other situations to be able to use some type of mechanized assistance.

Mr. Orazietti: Yes, it does. It allows for those exemptions and it also supports the amendments to subsection (7.2) that we’ve already made.

Mr. Bisson: Basically, what it means, then, is that we have a wilderness park and, just to be clear, by regulatory power, we can allow various mechanized means to access that wilderness park.

Mr. Orazietti: As discussed earlier, yes.

Mr. Bisson: Does it give the minister the ability to say ATVs?

Mr. Orazietti: It does in terms of keeping consistent with existing uses.

Mr. Bisson: So “mechanized” is an ATV, a pedal bike, a boat motor—whatever it might be, right?

Mr. Orazietti: Yes.

Mr. Bisson: That’s all I wanted for the record.

The Chair: Shall the amendment carry? Carried.

Further amendments?

Mr. McMeekin: I move that section 52 of the bill be amended by adding the following subsection:

“Regulations re mechanized travel in wilderness class parks

“(2.1) The minister may make regulations with respect to travel by a mechanized means in a wilderness class park under clause (2)(j) if the minister is of the opinion that travel by mechanized means addresses one of the following circumstances:

“1. To permit uses associated with land occupied in accordance with this act and the regulations.

“2. To permit existing non-conforming uses to continue, pending the approval of a management direction applicable to the park.

“3. To permit access through access zones identified in the management plan applicable to the park.

“4. To permit access to privately owned or leased land that is surrounded by, but is not part of, the park.

“5. To permit First Nations to address their needs.

“6. To permit commercial aircraft to land in order to allow visitors to access remote areas, in accordance with the management plan applicable to the park.”

The Chair: Questions and comments?

Mr. Bisson: As a pilot, I’ve got to ask why we put “commercial aircraft.” There are all kinds of people with private aircraft. Are we saying that we want to allow commercial activities to happen in the park by way of outfitters—“outfitters” wouldn’t be the right term. If you want to go in and take a look at a particular area and you want to do some canoeing, we’re going to allow you to bring your canoe in with a caravan, provided it’s a commercial airplane, but if you have a private airplane, you couldn’t do that, if I understand that correctly.

Mr. Orazietti: Yes, that’s correct.

Mr. Bisson: What’s the logic?

Mr. Orazietti: The logic is economic rationale as opposed to every individual flying into a park with their aircraft. The number of exceptions here are obviously to ensure that all of those activities that currently take place, as well with First Nations, are addressed in the bill.

Mr. Bisson: I understand that; section 5 deals with my concern. Can I ask somebody from MNR to come in for a couple of questions about current policy, because I’m not quite clear. Under current policy, can a private pilot take a float plane and land in a park?

Mr. Moos: Bob Moos, Ministry of Natural Resources. Current policy is that private landings are prohibited, but policy would allow someone to land if they had, say, a hunt camp or a lodge or something like that. We allow commercial landings associated with lodges and with access to parks; for instance, at Wabakimi, getting into the centre of the park, allowing commercial operators to drop people off and start their canoe trip. That’s an overview of the current policy. These exceptions that the minister could do are consistent with our current policies. We tried to scope them so that we could keep doing what we’ve been doing, which is limited motorized access and mechanized access.

Mr. Bisson: So the current policy is basically what they’re saying?

Mr. Moos: Yes.

Mr. Bisson: So why do we allow commercial aircraft? I don’t understand; just explain.

Mr. Moos: In many wilderness parks there are outfitters who fly people into the park for the purpose of starting canoe trips. That basically allows the commercial operator or the charter operator to bring people in, as they do now.

Mr. Bisson: So if a private pilot wanted to do a canoe trip, would there be a way of getting permission?

Mr. Moos: Not under our current policies.

Mr. Miller: Can I follow up on that?

Mr. Bisson: He’s a float plane pilot, so he’s even more worried

Mr. Miller: I have to give my conflicts up right now; yes, I am a float plane pilot. So currently you can't land a seaplane in a provincial park?

Mr. Moos: Not a private pilot; we have a restriction now. If you were accessing a hunt camp or a holding of private land, you could.

Mr. Miller: You could. So you're saying you can fly a private plane in if you are accessing a hunt camp in a park with permission?

Mr. Moos: That's right.

Mr. Miller: Although that isn't specified anywhere here.

Mr. Moos: There is a condition that allows people to access existing holdings. That's one of the exceptions.

Mr. Miller: So you're saying it could be by seaplane?

Mr. Moos: Yes.

Mr. Miller: Okay. I think I understand the rationale of allowing commercial operators, because my other bias is that I quite like going canoeing. In Lady Evelyn park, for example, I hope some day to get flown in to a pretty remote area and paddle out. I assume that the idea of allowing commercial operators is to limit the number of flights in, and also, recognizing the economic activity, I assume, an access for those who want to travel by non-mechanized means in quite remote areas?

Mr. Moos: That's correct and, as well, the provision would require that there be some authorization in the management plan which will identify which lakes and any conditions on that.

Mr. Miller: In the case of First Nations, I don't know whether they might want to use a seaplane to access a park for their traditional activities. Does that happen anywhere right now?

Mr. Moos: The objective for wilderness parks pertains to visitors travelling by non-mechanized means, so that wouldn't apply to First Nations exercising treaty rights. We wouldn't, I think, consider them visitors per se. That would be in their traditional territory, and they wouldn't be visitors.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Shall section 52, as amended, carry? Carried.

Shall section 53 carry? Carried.

Shall section 54 carry? Carried.

Have we forgotten one amendment here?

Interjection: It was withdrawn because it was out of order.

The Chair: Okay. Section 55, Ms. Mossop.

Ms. Mossop: I move that section 55 of the bill be struck out and the following substituted:

"Subsequent amendments

"55.(1) On a day to be named by proclamation of the Lieutenant Governor, subsection 7(1) is amended by adding the following paragraph:

"7. Aquatic class parks.

"(2) On a day to be named by proclamation of the Lieutenant Governor, section 7 is amended by adding the following subsection:

"Objectives: aquatic class parks

"(8) The objectives of aquatic class parks are to protect aquatic ecosystems and associated natural and cultural features for their intrinsic value, to support scientific research and to maintain biodiversity.

"(3) On a day to be named by proclamation of the Lieutenant Governor, subsection 52(1) is amended by adding the following clause:

"(b.1) prescribing the objectives for aquatic class parks;"

The Chair: Questions and comments?

Mr. Miller: What's different? I assume it's the 52(1) versus—can we have an explanation, please?

Mr. Oraziotti: The reference is to ensure that aquatic class parks are recognized on the day that it comes in force. It also is consistent with ensuring that Clyde and Bruton townships are grandparented immediately rather than being proclaimed separately at a later date. I support the amendment.

The Chair: Further questions and comments?

Mr. Bisson: I just disagree with that interpretation. I see it as basically giving cabinet the ability to do it later, but that's fine.

Mr. Oraziotti: With respect to aquatic class, correct.

The Chair: Shall the amendment carry? Carried.

Shall section 55, as amended, carry? Carried.

Shall section 56 carry? Carried.

Shall section 57 carry? Carried.

Shall section 58 carry? Carried.

Section 59: Ms. Mossop.

Ms. Mossop: I move that section 4 of the Historical Parks Act, as set out in section 59 of the bill, be struck out and the following substituted:

"Application

"4. Subsection 11(1), section 12, subsection 14(1), paragraphs 2 to 5 of subsection 15(1), subsection 15(2), sections 22, 24, 27, 31 to 37, 41 and 43, clauses 44(1)(a), (c), (d) and (g), subsections 44(2) and (3) and section 52 of the Provincial Parks and Conservation Reserves Act, 2006, apply with necessary modifications to historical parks."

The Chair: Questions and comments?

Mr. Miller: Explanation, please.

Mr. Oraziotti: This request was made by the Ministry of Culture. Some provisions of the current provincial parks apply to historical parks established under the Historical Parks Act. The HPA provides that some sections of the current Provincial Parks Act apply to historical parks, and this amendment corrects the applicable section numbers as well to parks that are particularly affected by this: Sainte-Marie among the Hurons and Old Fort William. So it's for consistency and somewhat of a technical amendment.

The Chair: Further questions and comments?

Shall the amendment carry? Carried.

Shall section 59, as amended, carry? Carried.

Shall section 60 carry? Carried.

Section 61: Mr. McMeekin.

Mr. McMeekin: I move that section 31 of the Mining Act, as set out in section 61 of the bill, be amended by striking out “in provincial parks” and substituting “in provincial parks and conservation reserves”.

The Chair: Questions and comments?

Shall the amendment carry? Carried.

Shall section 61, as amended, carry? Carried.

May I have unanimous consent to do block consideration of sections 62 through 66, inclusive? Agreed.

Shall sections 62 through 66, inclusive, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 11, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

We have one very short item remaining for the committee: Shall I present the final report on members' use of portable technologies in the legislative precincts to the House and move the adoption of the report? Agreed.

Thank you very much, ladies and gentlemen. We are adjourned.

The committee adjourned at 1804.

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Ms. Krystine Lintell, counsel, legal services branch, Ministry of Natural Resources

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Official Report of Debates (Hansard)

Tuesday 29 August 2006

Journal des débats (Hansard)

Mardi 29 août 2006

Standing committee on the Legislative Assembly

Education Statute Law
Amendment Act
(Learning to Age 18), 2006

Comité permanent de l'Assemblée législative

Loi de 2006 modifiant des lois
en ce qui concerne l'éducation
(apprentissage jusqu'à l'âge
de 18 ans)

Chair: Bob Delaney
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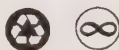
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Tuesday 29 August 2006

Mardi 29 août 2006

The committee met at 0959 in the Maples of Ballantrae Golf Club in Stouffville.

SUBCOMMITTEE REPORT

The Chair (Mr. Bob Delaney): Good morning, everyone. This is the standing committee on the Legislative Assembly. We're meeting this morning to consider Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act.

Our first order of business this morning would be the reading of the subcommittee report on committee business. Ms. Mossop.

Ms. Jennifer F. Mossop (Stoney Creek): Your subcommittee met on Tuesday, July 11, 2006, to consider the method of proceeding on Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act, and recommends the following;

(1) That the committee meet for public hearings on August 29, 30, 31, 2006, and that the committee travel to Whitchurch-Stouffville, Leamington and Hamilton, subject to witness demand, travel logistics and as outlined in the whips' agreement.

(2) That the committee meet from 10 a.m. to 5 p.m., subject to change, witness demand and travel logistics.

(3) That a minimum of six presenters (one hour) is required to warrant travel to Whitchurch-Stouffville, Leamington or Hamilton, and that if travel is not warranted to a location, witnesses in that location be offered videoconferencing.

(4) That the clerk of the committee post information regarding public hearings on Bill 52 on the Ontario parliamentary channel and the committee's website.

(5) That the clerk of the committee place an ad in the Globe and Mail and the Hamilton Spectator and also in the weeklies providing coverage to Whitchurch-Stouffville and Leamington and their surrounding areas.

(6) That interested parties who wish to be considered to make an oral presentation on Bill 52 contact the clerk of the committee by 4 p.m. on Wednesday, August 23, 2006.

(7) That the deadline for written submissions on Bill 52 be 5 p.m. on Thursday, August 31, 2006.

(8) That witnesses be offered a maximum of 10 minutes for their presentation.

(9) That the research officer provide the committee with background information on other jurisdictions with similar legislation prior to the start of public hearings, and that the research officer provide the committee with a summary of public hearings the week of September 11, 2006.

(10) That dates for clause-by-clause consideration of Bill 52 be determined by the committee once the House resumes in September 2006.

(11) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: All in favour of the adoption of the subcommittee report? Opposed, if any? Carried.

Mr. Frank Klees (Oak Ridges): Chair, if I might, I have some questions relating to that report. I understand that hearings have in fact been cancelled for Leamington.

The Chair: Correct.

Mr. Klees: Do we have the information on how many submissions were requested for Leamington?

The Chair: There were four, and the clerk advises they were all accommodated in Hamilton.

Mr. Klees: With regard to the advertisement for that area, can you confirm that there was an ad placed in the Windsor Star?

The Clerk of the Committee (Ms. Tonia Grannum): The Windsor Star? I can't confirm. I can find out for you. I know we did the Leamington paper, the weeklies and the surrounding area. I can check.

Mr. Klees: Okay. The reason I say that is the Windsor Star is one of the major newspapers in that area, including all of that southwestern area, and it would have been imperative that the Star be included. I was just surprised that we only had four submissions from that entire Essex county area. I would be very interested to know what the circulation was that we included in the advertisements.

In the same respect, I would ask that tabled with the committee is a list of the newspapers in which ads were placed both for this hearing, as well as the Hamilton hearing.

The Chair: The clerk will provide that information. Further comments? Thank you.

EDUCATION STATUTE LAW
AMENDMENT ACT
(LEARNING TO AGE 18), 2006
LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION
(APPRENTISSAGE JUSQU'À L'ÂGE
DE 18 ANS)

Consideration of Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act / Projet de loi 52, Loi modifiant la Loi sur l'éducation concernant l'apprentissage des élèves jusqu'à l'âge de 18 ans et l'apprentissage équivalent et apportant des modifications complémentaires au Code de la route.

ONTARIO CHRISTIAN HOME
EDUCATORS' CONNECTION

The Chair: Our first submission this morning is Ontario Christian Home Educators' Connection, Mr. Bill Groot-Nibbelink. If you're here, please come forward. Good morning and welcome this morning. You get the first word. You'll have 10 minutes for your submission. If you leave any time remaining, I'll divide it among the parties for questions or assign one question, if time is insufficient, to one party. Please state your name for the purposes of Hansard and continue.

Mr. Bill Groot-Nibbelink: My name is Bill Groot-Nibbelink. Mr. Chairman, members of the standing committee on the Legislative Assembly, Clerk Grannum, thank you for giving home-educating parents the opportunity to present our concerns with the amendments being proposed under Bill 52.

As I said, my name is Bill Groot-Nibbelink and I am representing the Ontario Christian Home Educators' Connection or OCHEC. We are asking that a specific procedure be developed that will allow home-educated teens between 16 and 18 to obtain their driver's licence without the involvement of a local school board.

OCHEC is a provincial home education organization created to link together and provide support to local home education groups throughout the province. Currently, we have 51 home education support groups that are members of OCHEC. We publish a quarterly newsletter and organize an annual convention at the Hamilton Convention Centre. This year, over 1,100 people attended that convention.

In real terms, we represent approximately 2,000 families and over 5,000 children. Using a ballpark figure of \$8,000 per student per year for education in the public system, we save the taxpayers of Ontario \$40 million a year by educating our children at home, and the results are impressive.

A 2003 study of home education in Canada showed that "9th to 12th graders scored, on average, at the following percentiles: in reading, 85th; in language, 84th; and in mathematics, 67th." That's a full 17 to 35 per-

centiles above the Canadian norm. The study also showed that among home-educated graduates, 40% have participated in cross-cultural exchange programs, almost all hold at least one volunteer position, the majority have voted within the last five years, and they show a higher average life satisfaction score than most other normed subgroups in western society.

Home education therefore produces individuals who excel academically, socially and in their contribution to society.

My point in all this is to respectfully ask that home-educated teens be given the respect they deserve and not be forgotten in the process of considering these amendments under Bill 52.

We appreciate the fact that subsection 21(2) of the bill clearly states that "a person is excused from attendance at school if ... the person is receiving satisfactory instruction at home or elsewhere." The difficulty comes when we get to section 21.2. In order for a home-educated, 16-year-old to apply for a driver's licence, it appears that they will have to go through their local school board to obtain a confirmation of compliance with section 21. Since we, as home educators, are already in compliance with section 21, we fail to see the need to involve our local school board and, in fact, we don't understand how a local school board could even legitimately issue such a confirmation. It simply adds another unnecessary and untenable layer of bureaucracy.

As home-educating parents, we have chosen this method of instruction so that we can tailor the education of each child to their particular strengths and weaknesses, both in terms of academics and character building. The many diverse courses of study used by home-educating parents are, in fact, the very strength of home education. Our experience with school boards, however, shows that they are ill-equipped to deal with this diversity and have, in some instances, tried to impose a one-size-fits-all approach in their involvement with home-educating families, and we wish to avoid this.

OCHEC, together with the Ontario Federation of Teaching Parents and the Home School Legal Defence Association, is offering an alternative solution. Since the parents of home-educated students are the only ones who can legitimately confirm compliance with section 21, our proposal is that a form be developed like the one attached as an appendix to the printed copy of this presentation. Home-educating parents would complete the form on behalf of the home-educated student, indicating that the student is receiving instruction at home. To add additional credibility, the parent would be required to have it signed by a guarantor, much the same as you or I do now for our passport applications. The student would then present this form to the Ministry of Transportation when they make application for their driver's licence.

The bottom line is that we are asking you to make provision under Bill 52 to allow for home-educated teens to apply for their driver's licence directly to the Ministry of Transportation without the added burden of involving the local school board.

Many of our members come from rural areas where a driver's licence is critical for teens to access part-time jobs. This bill, as written, would add another hurdle for home-educated teens that could particularly impact opportunities for those in rural areas.

My son, Nathan, is here with me today. Nathan, maybe you could stand for a minute. Even though I am speaking on behalf of OCHEC, I'm also here on Nathan's behalf. Nathan is educated at home and yes, even though it's still August, today is a home school civics lesson, civics that affect him directly.

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Nathan is a normal teen. He plays hockey in the winter and baseball in the summer. During the fall and winter, he also sings and dances in a 40-member performing arts group called Spirit Borne. He plays piano and has graduated the seventh grade from the Royal Conservatory of Music. This summer he sang in an a cappella group. He helps with the sound system at our church and volunteers about once a month at a local thrift store.

Nathan loves math and is at least a year ahead of his public high school counterparts in his studies. At this point, he's considering engineering as a possible career, so his education is being slanted in that direction.

In September, Nathan turns 15. In a year from now, he would like to have the opportunity to apply for his driver's licence without having to justify himself to our local school board. I hope that you will work hard to give him that opportunity. Thank you.

The Chair: Thank you very much for your deputation. We have time for one brief question, and that would be Mr. Klees.

Mr. Klees: Thank you, Mr. Groot-Nibbelink, for your presentation and also thank you to your son for being here. What I appreciate about your presentation is that it's practical, to the point and you make a recommendation. I would hope two things: first of all, that the government would withdraw this bill because it is so terribly flawed, it makes no sense at any level.

Having said that, your recommendation, should it proceed, that at the very least the government would consider taking your advice, because certainly there is no reason why we would invoke the local school board in this process. In fact, we have had many submissions, not only from people such as yourself who are in a home-schooling situation, but even the Ontario Secondary School Teachers' Federation has made it very clear that they see the implementation of this as incredibly cumbersome and that it would only create additional bureaucracy, not only for the school board but for teachers and principals alike.

It's a positive recommendation. Certainly we will be supporting that, and we hope the government will see the benefit of your recommendation. Thank you.

The Chair: Thank you very much for coming in this morning. That concludes the time that we have for your presentation.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair: The Ontario English Catholic Teachers' Association, Toronto. Donna Marie Kennedy, please. Are they here?

Ms. Donna Marie Kennedy: Yes.

The Chair: Good morning and welcome. You'll have 10 minutes for your deputation. If you leave any time remaining, I'll divide it among the parties or assign the remaining time to one party for questions. Please begin by stating your names for the purposes of Hansard and proceed.

Ms. Kennedy: Thank you. My name is Donna Marie Kennedy. I'm president of the Ontario English Catholic Teachers' Association. On my right is Jeff Heximer, a staff officer with our association.

The Ontario English Catholic Teachers' Association (OECTA) represents 36,000 women and men who teach in the elementary panel from junior kindergarten to grade 8, and in the secondary panel in grade 9 through grade 12 in Ontario's publicly funded Catholic schools.

First of all, thank you for giving us the time to present to you today. As you know, we represent teachers in both the elementary and secondary Catholic school systems in Ontario. We represent 12,000 teachers in our secondary schools.

We have an active participant in the Student Success Commission that advises the Minister of Education on all matters regarding secondary school reform, and that includes equal representation by boards and teacher affiliates and other representation as well. Locally, OECTA is co-operating to implement student success initiatives during the current four-year collective agreements that expire in August 2008.

We would like to caution that the credibility of the Student Success Commission could be compromised if Bill 52 pre-empts the productive consultation under way at this commission, and that is a serious concern for OECTA. We are particularly concerned by the government's plan to coerce some students to remain in school or participate in approved equivalent learning opportunities by connecting eligibility for a driver's licence to compulsory school attendance until age 18.

The government's plan to make the education system more responsive to student needs, help students feel more engaged and offer learning choices that are relevant are extremely valuable and laudable, and we support the government in this, but we question the value of the equivalent learning and how it will be delivered.

Under Bill 52, the Education Act is to be amended to authorize regulations that would enforce school attendance to age 18. Under the legislation spelled out in section 21, every applicant for a driver's licence under the age of 18 must be attending school to be eligible to apply for a driver's licence or for an endorsement on their driver's licence to take a practical or written examination for a driver's licence or endorsement. This connection to the Highway Traffic Act is problematic.

Bill 52 spells out at length the new bureaucratic responsibilities assigned to schools for implementation of the revisions of the Highway Traffic Act. These duties will most certainly distract the principal and academic staff from the teaching activities that are their primary purpose. Linking eligibility for driving permits to compulsory school attendance could generate numerous requests for compliance confirmation as well as non-compliance appeals. While preparation and local adjudication of each request might take the principal just one day, the time could accumulate quickly in some large schools. Even though compliance tasks may be transferred to a teacher, teaching and learning would be trumped by bureaucratic duties. Furthermore, money spent to administer section 2—compliance—is money that should be spent on quality education in the secondary classroom.

Under subsection 30(5) the compliance measures also would encompass suspension of driving permits as a result of habitual school absence. The public relations consequence of what would be seen as school-based barriers for young drivers could detract from delivery of quality programs that genuinely help students achieve. Therefore, we make two recommendations: that application for or suspension of driver's permits not be reliant upon school attendance and that all references to the Highway Traffic Act be excluded from Bill 52.

Enabling equivalent learning: The preamble to Bill 52 refers to "pupils with different learning styles" and "real choice through equivalent ways of learning that meet the requirements of the Ontario secondary school diploma." The legislation is intended to enable the development of learning opportunities for pupils that falls "outside the instruction traditionally provided by a board," termed "equivalent learning" in the act. OECTA is committed to the tenet that all secondary school students deserve an equal opportunity to graduate with a high school diploma.

OECTA and the government both oppose the voucher system and OECTA cautions that attaching student grants to external credit opportunities could be interpreted by some as a regulated voucher system. This would undermine the public school system and would be unacceptable to OECTA.

Section 1 of Bill 52 adds "equivalent learning" to the definitions found in the Education Act and includes colleges, universities and schools of music or arts. This portion of the definition does not really change the status quo. As it is written, there is no guarantee in Bill 52 that these equivalent learning opportunities will be required to adhere to the normal standards of instructional rigour.

However, the bill proposes to include community groups or other national and provincial programs for youth. The legislation does not limit access to community groups, regardless of their affiliations. Furthermore, at section 2 of Bill 52, the minister would have the regulatory authority to approve providers of equivalent learning and compel boards to enter into agreements to provide external credits. When these agreements produce

revenue for the providers, the ministry has legislated the voucher system. Alternatively, the ministry is contracting out education to private providers. If you look at the BC model, you see credits given for snowboard instruction, the Canadian Pony Club, boating courses etc.

The last government attempted to provide financing to private schools through tax credits. Private school interests will certainly fill the void about to be created by Bill 52. These amendments do not improve upon the status quo.

Beyond leaking public money to private interests, Bill 52 does not establish requirements for authenticating the work which students complete to earn equivalent learning credits. There is no requirement that the provider report grades or curriculum to the home school. The provider will not use the provincial curriculum, nor is there a requirement that teachers or instructors be regulated by the Ontario College of Teachers or supervised by a provincially regulated appraisal system.

According to the legislation, an approved provider stands to receive public money. This is unacceptable to OECTA.

Therefore, we recommend that Bill 52 be amended to exclude the definition of equivalent learning beyond the current practices of prior learning assessment, that Bill 52 be amended to exclude the recognition of providers of equivalent learning and that bill 52 be amended to prohibit agreements between boards and providers of equivalent learning.

1020

We do have an alternative vision for student success. Connecting eligibility for a driver's permit to school attendance is proposed as a way to keep students in school. The best incentive for school retention would be to ensure that school is relevant to secondary school students and connected to post-secondary learning opportunities and future employment.

Apprenticeships that are linked to employment opportunities and meet the classroom and work requirements, as set out by respective trades, deliver the most value to the economy and to individual students. The key to the success of any apprenticeship program is the connections that the school makes for the pupil through workplace training to employment as a skilled worker. A bona fide apprenticeship program would train skilled workers for the Ontario economy and offer job placements at the same time.

The Chair: Just to let you know, you have about two minutes.

Ms. Kennedy: Co-op placements could be improved if they included a return to the classroom so that workplace experiences could be reinforced with specific technical courses. Currently, co-op education placements frustrate employers because they know that co-op students are not subject to the same rigorous class work connected to work placements, nor are these co-op students expected to come on line as employees. A clear articulation between schools, employers and unions to provide a thorough course and experience package that delivers holistic training to skilled workers is desirable.

Ontario secondary schools are staffed by qualified teachers who are supervised under a provincially regulated model, deliver a provincially controlled curriculum and grade student achievement according to provincial expectations. This model also controls cost for the provincial government compared to similar learning at post-secondary institutions.

There is no need to offer secondary credits on a retroactive basis.

Our last recommendation is that Bill 52 include measures to direct boards to enter into articulation agreements with colleges, universities and training institutions, such that secondary students enrolled at secondary schools can earn advanced standing at those colleges, universities and training institutions without paying tuition. Thank you.

The Chair: Thank you very much. That concludes the time we have available for your deputation, so I'm afraid there won't be time for any questions. I want to thank you for your work in preparing your brief and for coming to present to us this morning.

ONTARIO FEDERATION OF TEACHING PARENTS

The Chair: The Ontario Federation of Teaching Parents, Katie Toksoy and Donna Sheehan. Good morning and welcome. If you've been here a little while you'll know you have 10 minutes for your deputation. Please begin by stating your name for the purposes of Hansard and proceed.

Ms. Katie Toksoy: My name is Katie Toksoy and I'm here to represent the Ontario Federation of Teaching Parents. Unfortunately, Donna Sheehan wasn't able to join me today.

I'd like to first give just a little overview of the home-schooling perspective in 2006 in Ontario.

Ontario has a strong and vibrant home-schooling network. The two provincial umbrella groups are OFTP—my group—and the Ontario Christian Home Educator's Connection, which you heard from earlier this morning. Our two groups advocate for the collective interests of our membership with various stakeholders such as the provincial government and school boards. Each organization also provides support and information for the home-schooling community in the form of newsletters, conferences and Internet chat groups. While some families are members of both organizations, OFTP is non-sectarian while OCHEC supports a Christian perspective.

Among the many resources available to home-schoolers there are local support groups which organize activities, field trips, conferences, learning co-ops with other home-schooled students and meetings with educational speakers. Home-schoolers also participate in local community activities such as theatre groups, athletic clubs, service organizations and church activities. Some students will take one or two courses at a local public school or high school with a sympathetic, supportive principal or even take courses at a day school or a

community college. Tutors may be sought to teach particular skills, such as a foreign languages or musical instruments.

More and more parents in Ontario feel confident in their ability to make available educational resources as their children prepare for post-secondary education. The availability of the resources via the Internet, e-mail and libraries makes information on any topic easily accessible to home-schooled students. Additionally, a whole industry has developed that caters to the home-schooling population, making science equipment, textbooks, curricula and, indeed, entire high-school programs custom-made, even with a diploma upon completion, if that's the route the family wishes to take. There are e-learning courses, correspondence college and university courses, advanced placement courses and distance diploma opportunities.

In Ontario, the ILC, the Independent Learning Centre, and the Virtual Learning Centre offer a good selection of high school credits which home-schooling students may avail themselves of. Some of our local students are also taking courses through the Alberta Distance Learning Centre, New Brunswick Community College, School of Tomorrow Canada in Manitoba, and Athabasca University in Alberta. Others have chosen to take courses through institutions based in the United States.

With this dizzying array of academic resources available, combined with activities organized by local home-school support groups and communities, home-schooled students are able to pursue their interests and develop their skills without the limitations that would be imposed in a more traditional, four-brick-wall setting. Therein lies one of the great strengths of a home-schooling approach: Parents are able to provide curricula that challenge students and learning opportunities which can be found beyond the limits of their own community.

Today I'm here mostly to talk about the teenage home-schooled students, whom you've met a couple of already today. Teenage home-schooled students have the luxury to pursue more than academics, like managing a goat farm, for example, training for a triathlon or volunteering to build a church in Mexico. Affirming the academic achievement of home-schooled students in Ontario, in 2002 a commitment was made by the registrars of all 20 universities in our province to develop admissions policies for home-schooled applicants. These applicants would not possess an OSSD. To date, Guelph, Brock, McMaster, Ottawa, Toronto, UOIT, Waterloo, Wilfrid Laurier, York and Redeemer have developed a formal admission policy for home-schoolers. The following universities do not have a formal policy but do assess applicants on a case-by-case basis: Queen's, Laurentian, Windsor, Carleton, Lakehead and OCAD. Still developing policies are Ryerson, Trent and Nipissing.

It is a fact that thousands of home-schoolers across North America have done well when they entered or re-entered the conventional schools, the workforce or college and university. It's testimony to the commitment

of their home-schooling families to the ultimate success of their children.

I have three points that I'd like to make to the committee today which are connected to Bill 52: first of all, to say for the record that we do think that there's a good side and a bad side to Bill 52. The good side is that the government is seeing that there's a diverse student population and that they need to increase the variety of educational opportunities for these students. We do feel that mandated attendance is not an effective way to make potential dropouts interested in learning, however. It really is ultimately the parents' choice and responsibility to enforce attendance, based on an intimate knowledge of their teen's talents and educational needs.

This legislation threatens the autonomy of families who choose to home-school. The members of OFTP feel that the main idea of forcing students to stay in school until they are 18 or graduate is really misguided. Linking two unrelated activities, school attendance and driving privileges, within Bill 52 suggests a fundamental lack of trust in Ontario's youth and their parents, whose right it is to choose educational opportunities and resources that serve their children's best interests. Ontario's teens need to know that they have the ability to choose the path that is best suited to their unique career and life goals without coercion from the government. For these reasons, OFTP does not support the parts of Bill 52 which threaten to link driving privileges and permission to work during school hours with compulsory school attendance.

Our second point: We see that it has passed second reading, we see there's a lot of support in the government, and the bill could pass. If the bill does pass, we'd like to propose that home-schoolers are expressly exempted from the following article, 21.2, which is exactly the same point that Bill Groot-Nibbelink made this morning, saying that we do not want to be involved with local school boards in confirming home-schooling status. Since home-schoolers are already excused from attendance at school under section 21.2—there's a typo there in the document; it's 21(2) of the Education Act—our members see no reason to involve a local school board in confirming their compliance with Ontario's laws. Actually, the local school board would have no knowledge or record of these students, so it would be impossible to legitimately confirm the home-schooling status of a particular student.

1030

The Chair: Just to let you know, you have a little less than two minutes to go.

Ms. Toksoy: Okay. Have I gone over the 10 minutes?

The Chair: No, you've got a little less than two minutes.

Ms. Toksoy: The last point is that if there is going to be proof needed if this bill passes and becomes law, home-schooling parents would expressly like to have direct contact with the Ministry of Transportation and avoid the whole route of going to the local school board, which has little understanding or knowledge about what home-schooling practices we are undertaking. With this

same form that you've seen, I've attached here on the document a guarantor's statement which seems to give credibility and confirmation of home schooling status, which is our right under law. Thank you.

The Chair: Thank you very much. If Mr. Marchese has a brief question—

Mr. Rosario Marchese (Trinity-Spadina): How brief is brief?

The Chair: Under a minute, question and answer.

Mr. Marchese: Okay. Thank you, Ms. Toksoy. New Democrats agree with the points that your organization makes, that mandated attendance is not an effective way to make potential dropouts interested in learning and, the second point in the second paragraph, that this is misguided. We believe profoundly that it is misguided. There's no evidence to show this works anywhere. We think this is more politics than pedagogy, and we agree with you and all the other critics. We hope that this bill doesn't pass, that you won't have to be exempted yourselves, because I think everyone else should be spared the problems that this bill would entail.

Have you talked to the minister or ministry staff or any politician about this, and what have they said to you?

Ms. Toksoy: Yes, we had a meeting with Kathleen Wynne in May, with her office. We didn't talk about the idea behind linking a driver's licence to school attendance. However, we did discuss this passport-style guarantor option, and it was received well.

The Chair: Thank you very much for coming in this morning.

ONTARIO ASSOCIATION FOR COUNSELLING AND ATTENDANCE SERVICES

The Chair: Our next presentation is the Ontario Association for Counselling and Attendance Services, Barb MacFarlane and Shelley Steacy.

Ms. Barb MacFarlane: Good morning.

The Chair: Welcome this morning. If you've been following the procedure, you'll know you've got 10 minutes for your presentation. If you leave any time remaining, we'll get one or perhaps more questions in. Please begin by stating your names for the purposes of Hansard and then proceed.

Ms. MacFarlane: My name is Barbara MacFarlane. I'm the president of the Ontario Association for Counselling and Attendance Services. I am an attendance counsellor of 25 years, and I work for the Algonquin and Lakeshore Catholic District School Board.

The Ontario Association for Counselling and Attendance Services has represented attendance counsellors employed by Catholic and public district school boards for over 50 years. Our purpose is to uphold the rights of young people in the province of Ontario to receive an education, as mandated by the Education Act and its regulations, which outline the legal responsibilities to ensure compulsory attendance for school-aged children and youth.

As members of this association, we are committed to advocating on behalf of the following core values.

Children's rights and responsibilities: By this we mean every child in Ontario has the right and responsibility to receive and acquire a high quality education.

High standards of professionalism: We actively identify, clarify and implement best-practice standards for all those working within our profession, including a recently implemented training program for current and prospective attendance counsellors.

Collegial support: We are dedicated to ensuring that all members of our association receive high-quality communication, professional development opportunities and the mentoring they require to be effective in the delivery of their professional responsibilities.

The Ministry of Education announced in the fall of 2004 the intent to raise the age of compulsory education and to include youth between the ages of 16 and 18 years. It is our belief that the children and youth in Ontario have a right to an education that is now entrenched in the Education Act of Ontario. The Supreme Court of Canada, in *Jones versus Alberta* in 1988, confirmed that the state has the right to uphold and protect education in a free and democratic society.

This amendment to the Education Act in Bill 52 will allow these youth who are disengaged from the school system many new pathways to further explore their educational interests and move toward graduation. Student success will depend on the school system creating a community that sees the unique characteristics and interests of each student in a culture that affirms the learning styles of each youth. This transformation has been witnessed in the new funding for student success, co-operative education, apprenticeships, alternative education and curriculum changes.

If we are to continue to build on these successful outcomes and to re-engage these alienated youth, we must be committed to long-term support for these youth, with new opportunities for mentorship and increased attendance counselling services. These principles are affirmed in the Early School Leavers report of 2005, authored by Dr. Ferguson of Sick Children's Hospital in Toronto, Ontario, and the C.D. Howe Institute paper *Stay in School: New Lessons on the Benefits of Raising the Legal School-Leaving Age*, also authored in December 2005, by Philip Oreopoulos.

We request that the Ministry of Education give the association an opportunity to assist in the development of the policy memorandums that will follow after royal assent is given to this legislation. It is important that we continue this partnership with the ministry in order to enhance the successful integration and transition for these young people returning to school to seek new pathways that will give them a diploma, post-secondary education and/or employment opportunities for their future.

Ms. Shelley Steacy: I'm Shelley Steacy, the eastern region representative from the Ontario Association for Counselling and Attendance Services. I've been an attendance counsellor for three years with the Hastings and Prince Edward District School Board.

When we think of the word "truant," the first image that comes to mind is often one of a quaint character ditching school to go fishing with a buddy on the riverbank. However, as I'm sure you will agree, the profile of today's truant is much more complex. I'm going to share a case with you and will refer to the student in this case as Tom Sawyer.

Tom Sawyer was referred to the attendance counsellor in his grade 9 year, as he had stopped attending school. After numerous visits to Tom at home, a therapeutic rapport was established. Once this rapport was established, the attendance counsellor learned the following about Tom.

First, Tom had witnessed extreme violence toward his mother at the hands of her common-law partner of several years. Along with watching his mother being verbally and physically abused, he had suffered the same treatment. On two occasions, Tom witnessed this man try to choke his mother to death. Added to this, his mother's partner attempted to run over Tom with a van. The police were called and charges were laid. Following this incident, Tom was sent to live with his biological father, Mr. Sawyer. Tom lamented to the attendance counsellor on several occasions that his mother had chosen her partner over her own children, and Tom struggled to understand why.

Second, Tom was suspended on numerous occasions from Sunny Day Secondary School for continual opposition to authority, along with verbal abuse of authority figures and general out-of-control behaviour. Several alternative-to-school placements were set up for Tom but were not successful due to Tom's lack of commitment and follow-through. Tom told the attendance counsellor that all he wanted to do was sleep and that he would sleep to avoid interaction with his father and older brother and other stressors. Tom told the attendance counsellor that he would often sleep from 10 p.m. one night to 6 p.m. the following night.

The attendance counsellor discussed this concern with his father, who agreed that Tom was in need of an assessment by his family doctor to determine whether or not Tom was depressed or possibly suffering from post-traumatic stress disorder. An appointment was scheduled, but Mr. Sawyer did not follow through with taking Tom to the appointment. Another appointment was scheduled, and with Mr. Sawyer's permission, the attendance counsellor provided transportation to the appointment. Tom was uncommunicative with his doctor and therefore no diagnosis could be made.

At different times, CAS was contacted by the attendance counsellor, but Tom was not seen as a child in need of protection. The local mental health agency was unable to provide support, as Tom refused to consent to their services.

Throughout these interventions, Tom continued to be absent from school, and the attendance counsellor laid a charge of habitual absence. Tom was found guilty and sentenced to a term of probation. Tom continued to be absent from school.

Another case conference was coordinated by the attendance counsellor at the school. It was attended by the principal, the probation officer, the local mental health agency's intake worker, Mr. Sawyer, Tom, and the attendance counsellor, in another attempt to provide Tom with support, thereby improving his attendance. At this meeting, Mr. Sawyer appeared to be confused in his thought patterns. His speech was slurred and he was at times difficult to understand. This was not the first time Mr. Sawyer had attended a meeting in this condition. After a lengthy discussion around poor school attendance and oppositional behaviours at school, along with Mr. Sawyer's attempts to provide insight into Tom's history, Tom broke down into tears. It was decided that Tom or his dad would contact the local mental health agency for support. Neither Tom nor his father followed through with this plan, despite numerous reminders from the attendance counsellor. In a conversation with Mr. Sawyer, he stated that he failed to see the value of the service.

1040

The Chair: Just to remind you, you have about two minutes.

Ms. Steacy: He further stated that, due to his frustration with Tom not attending school and his escalating defiance at home, he was planning to send Tom back to live with his mother and her partner.

By this time, over one year had passed since Tom's initial referral to the attendance counsellor. The attendance counsellor prepared a referral package and sent it to the children's aid society. Eventually, Tom was taken into care and placed with a very caring foster parent. Tom began to attend school with continued support from the attendance counsellor until his 16th birthday.

We wanted to share this case with you to provide insight into the nature of our profession and the level of service required by the students on our caseloads. Based on our current caseload numbers, we can only assume that with the passing of Bill 52, our roles will expand. At this point, there does not seem to be any mention of amendments to subsection 25(1) of the Education Act, "School attendance counsellors," which currently states, "25(1) Every board shall appoint one or more school attendance counsellors," and, further, subsection 25(5), "Jurisdiction and responsibility of school attendance counsellor," and subsection 26(4), "Inquiry by counsellor and notice."

We believe the current provincial complement is not going to be sufficient to properly enforce the change to this legislation. Across the province, we do not believe staffing to be adequate and would appreciate this matter being addressed, if possible, through the legislation, but if not, then at least through a funding source.

Thank you for your attention.

The Chair: Thank you very much for your time this morning. That concludes the time that we have for your deputation. I'm sorry; there won't be any time for questions based on that.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair: Our next presentation is from the Ontario Secondary School Teachers' Federation, Mr. Ken Coran. Good morning, and welcome. You'll have 10 minutes to give your deputation before us this morning. If you leave any time remaining, we'll divide it among the parties for questions. Please state your name for the purposes of Hansard and proceed.

Mr. Ken Coran: Thank you, and a good location. I wish I had my golf clubs with me.

My name is Ken Coran, and I'm the vice-president of OSSTF. With me is Craig Brockwell, one of our legislative assistants at OSSTF.

I would like to thank the committee for allowing the Ontario Secondary School Teachers' Federation this opportunity to provide our response on this important piece of legislation. Given the time limitations today, I will highlight only some of the comments from our more detailed brief.

OSSTF represents 50,000 teachers and educational workers in every school board across the province, as well as both Brock and Algoma University. Each and every one of our members understands the importance of achieving a high school diploma to our students' future successes.

OSSTF supports and applauds the preamble to Bill 52, in which the government articulates a number of strong belief statements about learning until age 18. It is because OSSTF believes in these statements that one of the planks in the OSSTF student success platform for the last provincial election was that "every student will stay in school until age 18." The government's version of the OSSTF plan, however, does not require students to remain in secondary schools while they do this learning, but recognizes such "equivalent learning" locations as workplaces or activities offered by community groups. It is the details of these "equivalent learning" establishments which cause considerable concern for OSSTF members. We note that acceptable learning locations will be further defined in ministry and board policies and guidelines, which are subject to much less scrutiny than regulation. I ask that you review some of the questions in our brief that may highlight some of these concerns.

We are aware that a predominant reason for students currently leaving school early is a lack of engagement within the schools. Serious family and/or mental health issues, in most instances, also disadvantage those who have difficulties maintaining good attendance. These same students also are at considerable risk of experiencing low literacy levels, interpersonal and adjustment problems, and subsequent employment problems. Absence from school is usually just one symptom of many wider underlying problems in the lives of these children. They often come from families which are disadvantaged and torn. They therefore face major barriers to learning.

We would suggest that the best strategy to keep students learning to 18 is to increase the number of

professional supports in the school. The ministry should mandate these services and provide increased protected funding to ensure that they hire qualified school board employees. These members of the educational team hold professional degrees and provide counselling, crisis intervention, assessments and life skills to students headed to university, colleges or the world of work. A key role in the successful completion of high school is provided by our attendance counsellors, social workers and other professionals. All of these professionals have been instrumental in the identification of at-risk students as well as in interventions that contribute to their successes.

The Ontario secondary school diploma is held in very high regard nationally and internationally. We do not want to see the value of this diploma eroded. While a national youth program such as Katimavik has indisputable value, we are concerned about the inclusion of community agencies in the acceptable list. Could this open the door for religious groups or fly-by-night charities to offer themselves as centres of learning? Community agencies can and do vary widely. Reputable agencies may be suitable sites for co-op education placements, but only if a teacher supervises the students.

While colleges of applied arts and technology may offer some attractive programs, their instructors are not required to have any teacher training. Only trained, certified secondary school teachers, with the invaluable assistance of board-employed professional support staff, have the professional knowledge and skills to ensure learning and diploma success for teenagers of all learning styles, abilities and needs. OSSTF believes that secondary school principals must be the only individuals with the ability to grant credits. Secondary school teachers teach all existing dual-credit programs, and we believe that this practice must continue for any expansion of dual-credit offerings.

It is crucial that all aspects of the planned high-skills majors, specialization programs that will hopefully serve as an incentive for at-risk students to graduate and proceed to skilled careers, ensure the use of certified teachers.

Parents want their children taught by qualified teachers trained in pedagogy and accountable to the school board and to the college for their conduct. Instead of using the less costly alternative of simply sending students out to work and then counting their work experience as learning, OSSTF urges the ministry to fund more shops and technical programs and train more tradespeople as teachers of technological education using the summer internship programs already available.

The external credit experiences in both BC and Newfoundland which we outline in greater detail in our brief are of limited benefit to those students of greater risk of dropping out of school. Therefore, their usefulness as a model for the Ontario program, except perhaps for adult students, is severely limited.

Co-op education courses such as the Ontario youth apprenticeship program are of tremendous value to those students considering dropping out of school. It is import-

ant for the government to understand that these programs must be both funded and supervised properly if they are to remain effective.

Regarding the enforcement of Learning to Age 18 via the driver's licence, OSSTF members support the goals of the act, which intends to help motivate all students to stay in school, continue learning and earn a diploma. However, the heavy-handed enforcement provisions that were placed in Bill 52 surprised OSSTF.

These provisions will prove difficult, if not impossible, to implement and will sour parents and students alike on the program. The carrot will be more successful than the stick in this situation.

In closing, OSSTF offers the following recommendations for your consideration.

Recommendation (1): Amend section 2 of Bill 52 to ensure that one further paragraph be added to the Education Act, subsection 8(1), paragraph 3.0.1., namely that equivalent learning be taught or directly supervised by teachers (as already defined in the Education Act as members of the College of Teachers).

Recommendation (2): Provide additional targeted funding for expansion of co-op education and technical education programs and facilities.

And the final recommendation: Any and all references to the Highway Traffic Act should be eliminated from this proposed legislation.

Thank you.

The Chair: Thank you for your time. We will have time for a question. It's Ms. Wynne's turn to pose the question.

Ms. Kathleen O. Wynne (Don Valley West): Thanks for being here, both of you. I think you would agree that this is not an easy thing that we're trying to do in terms of reviewing the school-leaving age. Mr. Marchese says that he doesn't support mandating of students being in school; we already do that. But the last review was in 1954, so we think it's time to look at that again.

1050

You talked about parents wanting their kids to be taught by teachers and so on. I think the other piece of that is, parents want their kids to be successful. They want their kids to have the experiences they need to carry on in life. What we're trying to do here, and I know you know this, Ken, is provide alternatives that will engage those disengaged kids.

I hear your concern about the equivalencies and the standards. My question is this: In section 2 of the bill there's an outline of the minister's obligation. It's the minister's powers, but it's the minister's obligation to set standards, to set criteria. To me, it lays out pretty clearly that the minister takes responsibility, and therefore the government takes responsibility, for making sure that wherever those kids are going to be, the standards are going to be high enough that they're actually going to be learning something. I appreciate your participation in the Student Success Commission, because that's where some of those nuances are going to be dealt with. Can you just respond to the section in the bill where it lays out that responsibility?

Mr. Coran: At one of the last partnership table meetings I was at with Gerard, he was talking about just that, that the government has to be accountable for education standards and for success. That is already built into the system right now, though. If we have the framework, with qualified teachers, qualified administrators and qualified board personnel, it's already there.

Ms. Wynne: But if we want to push outside the bounds of that traditional classroom and allow kids to tailor their learning, which is what we're trying to do so that those 30,000 kids will actually stay in school, then we've got to push the envelope a little bit.

Mr. Coran: Well, you can push so far. Remember, these are students' lives you're pushing right now. We don't want to put a student in a situation where there could be a health issue, a safety issue etc.

Ms. Wynne: That's why the minister has the responsibility to set those criteria. So I just ask that you take a look at that, okay?

Mr. Coran: I'll do that.

The Chair: Thank you very much for your time and for your deputation this morning.

JUSTICE FOR CHILDREN AND YOUTH

The Chair: Justice for Children and Youth, Martha Mackinnon. Good morning, and welcome. You'll have 10 minutes for your deputation this morning. Please begin by stating your name for the purposes of Hansard and then proceed.

Ms. Martha Mackinnon: Thank you very much. I'm Martha Mackinnon, the executive director of Justice for Children and Youth. Justice for Children and Youth is Canada's only legal aid clinic that specializes in issues affecting children under the age of 18. Justice for Children and Youth was actually founded in 1978, and we've been following issues that affect the interests of young people for as long as anyone in this country. As I said, we're the only legal clinic of our kind.

I'm here today, first, to express my gratitude for the opportunity to see you personally and express our views orally. Secondly, I wanted to explain to you the process whereby we came to our position. Justice for Children and Youth has a policy committee that consists of experts in criminology, sociology, front-line workers at the kids help line—it's a variety of expertise—and it includes interaction with our youth advisory committee. As I arrived here this morning, I thought, "My goodness, if I were a 16- or 17-year-old, I'd find it hard to get here." So I have to be, I guess, the proxy for some of those 16- and 17-year-olds who might not own a car and might find it slightly difficult to get to Stouffville, beautiful though it is.

As a proxy for the voice of youth, the first thing that I wanted to say is, everyone wants young people to learn as much as they possibly can; you can't possibly disagree with that as a goal. Everyone wants young people to be as prepared as possible for the work world that they're going to enter. However, the Education Act is the only

major piece of legislation affecting children that does not recognize them as being more or less nearly adults at about 16. It's the only legislation that gives them basically no rights until they're 18, and this legislation pushes that one step further. Kids at 16 can leave home, they can live independently, they can work. Their parents don't need to support them. If they've left home, there are a variety of ways that many children—too many, I would say—are forced to live completely independently. And yet, to say that they must also be going to school when they're struggling with a variety of other issues places an extra burden on them. They cannot go into the care of children's aid by the time they have turned 16, so they can't even seek another parent if their own home is not an appropriate place for them to be.

That's a sort of global comment. In the submission that we've circulated to you, one of the requests we would make in addressing this set of amendments to the Education Act would be to give full status to 16- and 17-year-olds if they're living independently. There's a provision in the act that might or might not hint that that could be possible for some kinds of kids, but it's not in the legislation and it's not clear, and I think it needs to be. I think we can't just have a discretion that something might happen in the future for kids who have a perfect legal right to be living independently. I think they need all of their rights.

The second thing that I wanted to say is, again, while I support the goal of encouraging learning as long as we can, I'd agree with the speakers from—I didn't actually hear them introduced—OSSTF, the teachers who were ahead of me—that in the carrot and stick thing, the carrot is fine, but nobody learns well because they're forced to. Learning, like therapy and so many other things, occurs best when it is something sought out willingly. Therefore, the stick part, the provisions affecting the driver's licence, is not helpful and, in my submission, will have a significant adverse effect.

Where this has been tried in the United States it hasn't been effective. Indeed, kids have come quickly back to school and they've quickly left again because those same kids are not in a position where they are ready to be at school or where school has something that is right for them, or they have other things going on in their lives that are simply of higher priority or their families need them on the family farm. Whatever the reasons are, they haven't come back. What's happened is that it puts school principals in the awkward position of, "Do I rat out this kid, who is otherwise a good kid, to get their driver's licence cancelled, or do I, a principal, the head of a school, not co-operate with the law and put myself in an untenable position?" Both have happened.

Secondly, young people simply will drive. If you live in Napanee or outside of Napanee and you can't buy a quart of milk without a car, you're going to drive. So there will be young people who drive without a licence; it simply will happen. Those drivers will be uninsured, and somewhere along the line one of them is going to have an accident and there will be victims of an uninsured driver. That's an aspect of the legislation that I think no one can

have intended. No one can have wanted that unforeseen consequence, but to me it's entirely predictable that when you create an additional class of uninsured drivers, there will be adverse consequences.

The next area I wanted to address is really a supplement to the notion that the penalty provisions on driver's licences won't be effective. In addition, the current provisions that we have relating to—I'll call them fines and bonds. We already have provisions that we have used for truancy for students to this point. I don't know whether they're effective or not. I think they're somewhat effective when the student is young enough that their attendance at school is truly within the control of their parents. They're nine; their parents either get them to the school bus or they don't.

I represented a young girl once who wanted to be in the care of children's aid because her mother wouldn't let her leave home until she had fed the mother, who was hung over, fed all the rest of the children, made all their lunches. The girl could never make the school bus. Okay, I'd be happy to have that mother charged with truancy, which you can do. It's not clear to me that it's been effective to charge kids themselves with truancy. No matter what your hopes are out of a punitive model, I can tell you that there are judges in this province who believe that if you've got a law against it, which we do, and if a student is truant and you find them and put them on probation—even the fine is often not used, but the putting on probation is extremely common—

The Chair: Just to remind you, you have about two minutes.

1100

Ms. MacKinnon: Perfect—and if they are truant again, the thing that is likely to happen to many of them is, they're sent to jail. I can tell you that 30 days in jail does not improve a kid's regular attendance at school. They don't even get placed in a classroom, and all they've had is a custodial experience that exposes them to the wrong kids and doesn't help them to do continuous learning.

So what I would finish my presentation with is an irony. Ontario has really never said, "You have to go to school until you've learned so much." When I was a kid, you had to go to school until the end of grade 8. That's the closest we ever got. Then you had to go to school until 16, or you could drop out at 14 if a judge said so. Now you have to go to school until 16 unless a SALEP says so, and they place you in a learning environment that isn't a school. This says that you have to go to school until 18 unless you're in some other approved place, but what it doesn't say is, "You have to go to school until you can read and write well enough and you're numerate enough." If this were entirely focused on, "There are learning standards, period," then I think it would be easier for the underlying policies of increasing the learning of our students to be the dominant feature as opposed to the punishment. Thank you.

The Chair: That concludes the time that you have for your presentation this morning, so I thank you very much for the time that you put into this very thoughtful brief.

NICHOLAS DODDS

The Chair: Mr. Nicholas Dodds, please. Good morning and welcome.

Mr. Nicholas Dodds: Thank you very much.

The Chair: If you've been following along, you'll know you have 10 minutes for your deputation. If you leave any time, we'll try and get in a question or two. Please begin by stating your name for the purposes of Hansard and then proceed.

Mr. Dodds: My name is Nicholas Dodds, and I'd like to begin by thanking the representative for Justice for Children and Youth. She pretty much said exactly what I was going to say, so I'm not sure why I need to be here. But I do have some points that I would like to bring up.

First of all, regarding students representing themselves: I am a recent high school graduate; I graduated in June. I'm currently taking an apprenticeship in locksmithing through the Ontario youth apprenticeship program. I've been a long-time youth rights advocate, and coming from the perspective of someone who was recently in the age group that this particular bill will affect, I have some serious concerns regarding it.

First, I'd like to address the fact that this bill is biased in favour of urban, middle-class youth. Bill 52 is written with the unrealistic assumption that the students it affects are in supportive, healthy home situations where their needs are taken care of and they're not required to work full time to support their family or stay home to take care of their family. There are home situations where people do have to stay home to take care of their siblings, where they need to work full time to take care of their parents and the rest of their family, and this bill will prevent them from being able to do those things.

There are also people who are 16 and 17 who are in abusive home situations and need to be able to leave that home in order to avoid that abuse. If you're in an abusive home situation—and, again, you can't go into children's aid—if you can't go into foster care, then you need to leave home, and of course nothing is free. You need to work, get some sort of apartment or accommodation, and you need to be able to support yourself. Though it's unfortunate, quitting school in order to work or do other things is in some cases more beneficial than staying in school, but Bill 52 may prevent students from being able to avoid poverty or from escaping abusive situations.

Also, taking away a young person's driver's licence is entirely punitive and is unrelated to how thorough an education they get. Not only does this hinder already-at-risk youth from finding means to support themselves in some way if for some reason they do drop out, but it disproportionately affects youth in rural areas, where, because of their remote nature, taking away a driver's licence is tantamount to imprisoning someone, coupled with the fact that any business which employs a student during school hours will be fined. Of course, no business wants to be fined. I am very concerned about how this will affect at-risk youth, youth who have dropped out. It denies them a livelihood.

Finally, a point which is often not considered is that 16- and 17-year-olds, though commonly thought to be foolish and not mature enough to make their own decisions, are mature enough to make their own decisions. Often they can make informed decisions about their own lives. They are capable of self-determination in their personal affairs. I know I was. Introducing legislation that forces them to get some form of government-approved education up to the age of 18 is insulting. It denies a teen's right to his or her own destiny to make autonomous decisions. Again, coupled with the fact that they won't be able to work during school hours or have a driver's licence, it denies their right to a livelihood.

During these proceedings, there has been at least one reference to the right to receive an education—if we're on the subject of rights—and how learning to age 18 is fitting with this. One of the characteristics of a right is that you can't impose a right on somebody. A right is something which is available to someone and which they choose to exercise freely. When you impose something on someone, you are not granting them a right; you are coercing them. This bill will coerce students who otherwise would not like to be in school into staying in school until they're 18. The name of the act makes reference to "learning to age 18." Again, putting a student in a school environment will not make them learn.

My recommendation as a member of the public, as someone who has just graduated from high school, who has friends who are in the demographic that this bill will affect, is that this bill not pass. It's insulting towards youth. It doesn't take into account the fact that there are youth in certain home situations which are disadvantageous, to say the least, and I do believe it's biased. Thank you.

The Chair: Thank you very much. We should have time for a question.

Mr. Norm Miller (Parry Sound–Muskoka): Thank you very much, Nicholas, for your presentation today. I would like to point out that the Ontario PC caucus strongly opposes the punitive nature of this bill.

I like your points about rural Ontario. I represent Parry Sound–Muskoka in northern Ontario, where a car is basically essential for employment. So your points about how it imprisons a young person who, for whatever reason, is not able to stay in school or decides not to stay in school or has a family situation where they aren't able to stay in school, are well taken.

Is there anything positive about this bill? I've seen lots of submissions that have concerns with it and lots of editorials that I read on the way up here that are negative. Is there anything positive about it?

Mr. Dodds: About this bill particularly, I'm not completely sure—

Mr. Marchese: Make an effort.

Mr. Dodds: Right. I believe that the initiative that this bill is part of that is offering different venues for students to get an education—

Mr. Miller: We've heard about concerns from some organizations with the equivalency learning. You think that's a positive thing.

1110

Mr. Dodds: I think equivalency learning is excellent. I think it's really good. Again, I'm in OYAP, so I have first-hand knowledge. I'm going to be receiving an apprenticeship certificate in probably about two years. A lot of my classes are paid for. I was never a huge fan of school. I did enjoy certain aspects of it. But for me, at least, and I know for other students who struggle with school, I think that is absolutely wonderful. Though I know many people would be more comfortable with teachers who are certified teaching students and making decisions on whether they're ready for certain things or whether they've learned enough—

Mr. Miller: You don't have a problem if the person in the equivalent learning program is not a certified teacher. Is that what you're saying?

Mr. Dodds: No, I don't. I think it would probably be beneficial if they were, but I don't think it's 100% necessary. So yes, that is my take.

The Chair: Thank you very much, Nicholas. I'm sure we all hope that your apprenticeship in locksmithing will be a key to a very bright future. I want to thank you very much for your deputation this morning.

Our next deputant is Satinder Kohli.

MAVIS CALOW

The Chair: Is Mavis Calow here? Good morning. Make yourself comfortable. If you've been here longer than a few minutes, you know that the general procedure is that you have 10 minutes for your deputation. If you leave any time, one or more parties may be able to ask you questions. Please begin by stating your name for Hansard and then continue.

Ms. Mavis Calow: My name is Mavis Calow. I've been a resident of Durham for 25 years, the past five years in Goodwood in the township of Uxbridge.

Just a quote: "Bullying is an underestimated and pervasive problem. It is a proven precursor to violent behaviour and is never acceptable in Ontario's schools or communities." You may or may not recognize this quotation as that of former Ontario education minister Gerard Kennedy on the government's tough new anti-bullying bill. Ironically, Mr. Kennedy is also responsible for the introduction of a new form of disciplinary punishment in Bill 52. This bill will prevent students under the age of 18 from obtaining a driver's licence if they are not attending school.

My concerns—and I have no reason to be here, as I do not have a child of school age—are as follows: I feel the government is overstepping its bounds. I also feel that a bill of this magnitude should have extensive feedback from the public, perhaps a newsletter to the schools when September starts, suggesting meetings so that the parents who are going to be affected, especially up here, can put their voices in.

I am also concerned about the possible subjectiveness of decisions made by board personnel. With school administrative staff already nervous in dealing with parents,

imagine how anxious they're going to be to let their parents know that their sons or daughters are now deprived of their drivers' licences. I'm concerned about the impact, especially for learning disabled children who, as it has been pointed out in the review of the Safe Schools Act, are already being punished unfairly, it is felt.

Now, I think there's also a perception that members of Parliament are removed from reality here. Let's get off the Mike Harris bandwagon. There have been problems with the education system for years. Group learning has resulted in children incapable of individual decision-making. Our fear of calling a spade a spade has resulted in pushing students along from grade to grade, many with insignificant reading skills, which then results in children unable to do reading-based mathematical problems. No wonder they can't succeed in high school. Then comes along the accompanying poor self-esteem and loss of interest in school. It is the job of educators to find ways to re-engage these lost students. Punishing them by withholding driving privileges is not a logical consequence.

Rather than the principal or board designate spending time providing confirmation that a student is in compliance with section 21, or is exempt or having them handle appeals, I would prefer these resources be directed to improving the learning environment for children.

As far as the courts being involved, I can't even believe anybody would want to encourage that. They're already overwhelmed. There really isn't any more room in the courts.

I've taught learning-disabled children. I've sat in classrooms. I have a 23-year-old dropout who is now travelling across the world fixing multi-million dollar drill rigs. He was pulled out of school by me because he was wasting the taxpayers' money. He was playing games. Some of these kids really know how to play the system. My answer to him was: "You either go to school or you go to work." As a very wise person once said to me, "You can't put an old head on young shoulders." Sometimes these kids have got to get out into the workforce and learn. As my son would say to you, testing is done every day in the workforce, and you don't do a 40% or 50%—you're fired; you do 100%.

Thank you.

The Chair: Thank you very much for your deputiation. We should actually have enough time for each party to ask you a question, beginning with Mr. Marchese.

Mr. Marchese: Thank you, Mavis. I think that you have spoken on behalf of most of the critics of this bill. We haven't had anyone agreeing today with this bill, and even the young man who talked about agreeing to the equivalency idea—I don't think he supports the bill, but he supports the whole notion of having co-op learning or apprenticeship learning. I believe the majority of people oppose this bill on reasonable grounds.

To draw an analogy, the Tories introduced the teacher test for first-year teachers. It was done for political reasons, not pedagogical, because we know that 99% of

the teachers passed the test. This government is doing the same with Bill 52. It's intended to make some parents feel good that they're holding on to the kids, but there's no pedagogical reason to do so. As Professor Bennett said, "I think it's important for kids to get as much education as they can"—who disagrees with that?"—"but more of something that caused them to leave school in the first place isn't the answer." I believe that he's correct, that you're correct, that the previous speakers are correct: Kids need learning assistance if they're having difficulties. Holding on to them at age 17 to 18, when we haven't dealt with their learning difficulties, be they special ed or otherwise, isn't going to solve it. You agree with that.

The Chair: Thank you. Ms. Wynne.

Ms. Wynne: Thank you, Mavis, for being here. I'm just going to pick up—more of something; what we're trying not to do is do more of the same. Bill 52 is a framework for those other things that you said you agreed with: the dual credits that would allow kids to be in a secondary school setting, in a college setting at the same time getting credits; more co-op programs; those alternative equivalent learning environments; a high-skills major which would bring employers into the mix. Those are not more of the same thing. I'd like your comment on that, because without some legislation to put that framework in place, we're going to continue doing the same things that we've been doing.

We need to send a signal to the system and to society that we're confronting a conundrum. Kids do better if they have a secondary school diploma. Now, there are students who have supportive families and manage anyway, but on the whole, people do better in their lives, they earn more, they have lives that in terms of their careers are more satisfying if they have their secondary school diploma to start out with. Their opportunities are broadened. That's the conundrum we're facing, so that's what this legislation is about. It's the framework to try to do more different things to bring those kids along.

Do you agree that we need to do something to engage kids who are not being engaged at this point?

Ms. Calow: I think I already set that out. You definitely do need to do something to engage children, but not at that age. You need to start from a much younger age. There's no reason that once you've passed 16 you can't be out of school. There is no need for these kids to be in school till they're 18.

Ms. Wynne: So you would support the programs that we're putting in place for grade 8 kids to help them to get a boost on high school?

Ms. Calow: Yes.

Ms. Wynne: We're doing that too.

The Chair: Mr. Klees.

Mr. Klees: Thank you, Ms. Calow, for being here. We appreciate your input.

We who are charged with the responsibility of reviewing proposed legislation, those of us in opposition, side with every stakeholder who has presented here today. We have not heard one stakeholder support the punitive

aspects of this bill, and we're calling on the government to withdraw those sections. We've heard from teachers' unions today, we've heard from parents, we've heard from students. We've heard terms such as "misguided" and "impractical." We heard from Nicholas, a student who has just graduated, who said that this is insulting toward youth. We agree with all of those submissions, and we're calling on the government to reconsider.

1120

The one aspect of this bill that we support is the preamble, because we cannot find fault with that. We all want students to have the best possible education; we all want students to complete their education. But as you point out, it's the outcomes that we should be really focused on. There are students who will fall through the cracks here strictly because of a quickly put together piece of legislation, the purpose of which we cannot figure out. It may sound good in a sound bite, but it's false to impose this kind of punitive legislation on our education system. It won't work for students, it won't work for teachers, it won't work for school boards. It will not work. So we appreciate your submission. We hope that the government will listen and withdraw this legislation.

Ms. Calow: If I can just point out one thing, it's very easy to create a preamble for a bill and put down what everybody wants; it's a whole other thing to actually make it work. We've heard a lot of things the past couple of years about what we're going to do, but what has actually been done is quite different from what we were told was going to be done.

Mr. Klees: Thank you so much for that.

The Chair: Thank you for your time here this morning.

Mr. Klees: With that, Chair, could I ask for unanimous consent? The unanimous consent would be that, having heard a unanimous condemnation of this legislation, we agree—

The Chair: Mr. Klees, can we finish our deputations before we do your motion?

Mr. Klees: Sure, okay.

The Chair: For the second time, is Satinder Kohli in the room? Okay.

YORK REGION

ALLIANCE TO END HOMELESSNESS

The Chair: The York Region Alliance to End Homelessness. Good morning, and welcome. You'll have 10 minutes for your submission this morning. If you leave any time remaining, it will be divided among the parties for questions. Please state your name for the purposes of Hansard and then proceed.

Ms. Jane Wedlock: My name is Jane Wedlock. I would like to thank the committee for the opportunity to address you with respect to Bill 52.

I attend today in my current position as public education coordinator for the York Region Alliance to End Homelessness. The alliance was formed in 1999 as con-

cerns about homelessness, particularly homelessness among youth, were emerging in our communities. The alliance is a collaborative of representatives from social service agencies, faith groups, interested community members and government representatives that seek to understand, plan and coordinate services and supports related to homelessness in York region.

I also bring experience as a former program director of a federally funded employment program for youth with the most barriers to employment: out of school and out of work. I'm also the parent of a son who was saved from dropping out of school by a semester spent in an alternative education program that gave him breathing room and enabled him to return to the mainstream and complete his high school diploma, much to my relief, I have to say.

I would like to share some insights with respect to youth homelessness in our region and how education intersects in the day-to-day lives of some of our young people. We believe it would be helpful for the committee to have this lens to look through as Bill 52 is being considered.

We echo the concern of the government with respect to the number of youth who are dropping out of school early and the goal of providing a range of meaningful educational opportunities that engage and inspire our young people to continue their education. However, we question whether Bill 52 will in fact achieve those objectives, particularly for those young people who are alienated and marginalized in our communities. We wish to broaden the conversation to include an understanding of systemic and other factors that contribute to a young person's decision to remove himself or herself from school at an early age and whether punitive measures are in fact the best approach or indeed relevant to promoting participation of young people in the school system.

It has been estimated that a third of Canada's homeless population are youth. General characteristics of youth that experience homelessness are: exposure to physical violence, mental health problems, alcohol and drug abuse, sexual abuse and conflict with the law. They are often isolated, with few family ties and lack of trust relationships. Many have been raised in foster homes and have a lack of education and skills, suffer poor physical health and a lack of self-esteem. We know there is an issue of hidden homelessness among youth, those youth who are not on the street but may be couch-surfing, staying with friends on a temporary basis due to lack of accommodation.

A consistent factor that has been reported within the literature of at-risk youth is their experience within school. Many street-involved and homeless youth have reported negative experiences at school.

A study conducted in 2003 by the Centre for Studies of Children At Risk at McMaster University sought to understand the characteristics of the youth attending the Home Base Youth Drop In Centre in Richmond Hill, a centre for homeless youth and those at risk of homelessness, ages 13 to 24. The study included an explor-

ation of substance use and abuse, criminality, mental health, victimization and education. Some 42.8% of the youth in the study were 16 and 17; 8.7% were under 16. Fifty-five per cent of the youth in the study were not attending school, either traditional or alternative; 65% had a grade 10 education or less; 82% of the youth had been suspended from school, with 45% suspended more than three times, and yet 62.3% would eventually like to obtain a post-secondary education.

We all know that education does not occur in a vacuum. The lives of our children and youth are intertwined with many other influences that impact how they engage with the school system: family dynamics, language, cultural expectations, peer relationships, access to recreational opportunities, employment, housing, health and their own inherent resilience to withstand the challenges that come their way.

It is perhaps easy to talk about students who drop out as if it is wholly the result of their own actions that they find themselves in this situation. That would deny the impact of educational policy change, curriculum change, inadequate educational resources, the consequences of family breakdown and family blending, abusive relationships, mental health issues and poverty, to name a few of the underlying factors that could contribute to such a decision.

I have spoken with youth who are so embittered by their experiences of formal education that they cannot conceive of going back. They are defiant, angry, alienated and scared, and desperately want to find employment to build some sort of a future, but they lack skills, social supports and a stable home environment.

I have also known youth who have disengaged from the system and know how critical it is but have had to fight tooth and nail to be readmitted. They have needed adult advocates to find someone in the system who would be willing to support them in their struggle.

I have witnessed the lack of trust, motivation and the overwhelming need to numb the reality of their situation through the use and abuse of substances. I have seen a young woman in a youth shelter with both arms scarred from wrist to elbows as a result of self-harm. I have seen a troubled young man only get diagnosed with fetal alcohol syndrome when he was in jail at the age of 20.

Many of these young people cannot see their future. Their heads are not filled with adult logic nor the understanding of the long-term consequences of the actions of others or their own. They know only of the day-to-day, which for many is all-consuming: how to find food, a place to stay, a source of income—legally or illegally, whatever it takes.

Self-esteem comes from multiple successes. It comes from affirmation, from belonging, from respect and from a sense of self-worth. It comes from knowing who we are and a growing sense of our skills, capacities and assets as we move towards adulthood. It comes from mentors, trusting, supportive relationships; creative, flexible opportunities for learning and skill development. It comes from a willingness of others to see our identity defined

by more than our mistakes. In our opinion, it does not come from unrelated punitive measures. For homeless youth and many of those at risk of homelessness, driving is not even an issue, and such a penalty for being out of school would mean little.

Driving is indeed, however, a meaningful learning activity, a milestone. It is a chance for skill development, for responsibility, a means to access employment. A young person's ability to drive may be incredibly important within a family. In rural communities it is a lifeline when there is no public transportation. It may be the one thing that a young person is able to accomplish during a time of upheaval and perceived failure of having dropped out. It could provide a critical source of income to an individual or a family. A loss or inability to gain a licence linked to school participation would further alienate youth who are already marginalized through lack of success in the educational system.

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Youth, particularly those on the margins, need to be inspired, motivated and have access to opportunities where they can discover strengths and assets, whatever they are, in order to build a hopeful future. Our educational system plays a critical role in this development, but so too does the wider community.

Homeless and at-risk youth need their basic needs met if they are to have any chance of success with any kind of education, whatever form it takes. They are worth the investment. If we are to unlock the potential of these young people to participate as active, engaged citizens, we must be innovative in our approach and create accessible opportunities for them to participate in education.

The preliminary findings from Anybody's Couch, a recent study by researchers from York University's School of Nursing seeking to understand the lives, health and service needs of York region homeless youth, included the recommendation to further develop innovative and flexible programs for youth to participate in education and job skill systems.

The Chair: Just a reminder, you have about two minutes.

Ms. Wedlock: I hope the information presented today has provided some insight into the complex issues facing some of the more marginalized youth in our communities. Many of these young people live with the perception that they are invisible or that people wish they were. On a daily basis, they face inflexible institutions and, at times, seemingly insurmountable barriers to a hopeful future. We hope that legislation introduced by this government recognizes their reality. We do not believe that Bill 52, in its current form, will in fact achieve this objective.

Thank you for this opportunity.

The Chair: We should have time for one brief question from Ms. Wynne.

Ms. Wynne: Thank you very much for being here, and thank you for your work. It's obviously critical.

You're obviously supportive of whatever supports and alternatives we can put in place. In terms of the money

that has gone into this system so far, it has all been about creating those alternative programs and creating pilots in boards to see what actually works, what keeps kids in school, what keeps them learning. I'm assuming that you'd be supportive of anything we can do that would allow students to have a work experience while they're gaining credit. Is that correct?

Ms. Wedlock: Absolutely. I think the education system has to go out further into the community. Kids who have fallen out of the system are forgotten by the system, to be honest. Once they're gone, they're gone. So you have to fight to get them back in again and for people to take notice. These kids have multiple, multiple issues. They have to have people who are willing to go to bat for them. They have to have people who are willing to accept the fact that they may screw up again, but they ask not to be given up on.

Ms. Wynne: I think that's exactly the conundrum we're facing: how to do that and how not to have an artificial barrier between school and society—because it is an artificial barrier. School is just the job that kids do until they have the rest of their lives. So we're trying to make those connections stronger.

Thank you for being here.

The Chair: Thank you very much for your deputation this morning. On behalf of the committee, I thank all of the deputants for their time and for their thoughtful input.

Mr. Klees, you started to make a motion. Are you going to make the motion?

Mr. Klees: Yes, I would like to do that. I'd like to seek unanimous consent from this committee to make a

recommendation that this bill be withdrawn in light of the unanimous objection by every single presenter today to the punitive aspects of this bill. I think we would be much better off to focus on either amendments to the existing bill or simply to start over again, because there is no support for the government's approach to this. So if I could have that unanimous consent, I think we could move forward, as a committee, to many more positive ways that we could deal with this issue.

The Chair: Your motion is in fact out of order. Although the committee can defeat the bill during clause-by-clause, it doesn't have the authority to recommend that the bill be withdrawn.

Ms. Wynne: Could I just make a comment for the clarification of people who are here to hear this exchange? The purpose of having public hearings and listening to the public on a piece of legislation is to look at what amendments—the whole reason for being out and listening to people is to figure out what the best amendments would be. I would suggest that it would be great if Mr. Klees would turn his mind to working with the committee to make recommendations to the minister. That's what this is about.

The Chair: Thank you. In the interests of fairness, Rosario, do you want your two cents' worth?

Mr. Marchese: Let's move on, Mr. Chair.

The Chair: Okay. Thank you. These hearings are adjourned. We will pick it up again tomorrow at 10 o'clock, east ballroom, Sheraton, Hamilton. Thank you all for coming.

The committee adjourned at 1136.

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Wednesday 30 August 2006

Journal des débats (Hansard)

Mercredi 30 août 2006

Standing committee on the Legislative Assembly

Education Statute Law
Amendment Act
(Learning to Age 18), 2006

Comité permanent de l'Assemblée législative

Loi de 2006 modifiant des lois
en ce qui concerne l'éducation
(apprentissage jusqu'à l'âge
de 18 ans)



Chair: Bob Delaney
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 30 August 2006

Mercredi 30 août 2006

The committee met at 0959 in the Sheraton Hamilton Hotel, Hamilton.

EDUCATION STATUTE LAW

AMENDMENT ACT

(LEARNING TO AGE 18), 2006

LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION
(APPRENTISSAGE JUSQU'À L'ÂGE
DE 18 ANS)

Consideration of Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act / Projet de loi 52, Loi modifiant la Loi sur l'éducation concernant l'apprentissage des élèves jusqu'à l'âge de 18 ans et l'apprentissage équivalent et apportant des modifications complémentaires au Code de la route.

The Chair (Mr. Bob Delaney): Good morning, everyone. This is the standing committee on the Legislative Assembly. Thank you all for coming out nice and early this morning. We are here to consider Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act.

ONTARIO TEACHERS' FEDERATION

The Chair: Our first deputation this morning will be from the Ontario Teachers' Federation, Hilda Watkins and Ruth Baumann. Are you here? Come on up. You get the first word of the day.

Please make yourself comfortable. You'll have 10 minutes to make your deputation. If you leave any time remaining, we'll divide the time among the parties for questions. Please introduce yourselves for the purposes of Hansard and proceed.

Ms. Hilda Watkins: Good morning. I'm Hilda Watkins, president of the Ontario Teachers' Federation, and with me today is Ruth Baumann, general secretary of the Ontario Teachers' Federation.

The Ontario Teachers' Federation welcomes the opportunity to provide the standing committee on legislative affairs with feedback on Bill 52. OTF is the statutory organization representing the professional interests of teachers employed in publicly funded Ontario

schools. It is composed of four affiliate organizations: l'Association des enseignantes et des enseignants franco-ontariens, the Elementary Teachers' Federation of Ontario, the Ontario English Catholic Teachers' Association, and the Ontario Secondary School Teachers' Federation. It has a membership of 155 teachers—excuse me; it has a membership of 155,000 teachers.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): It's gone up.

Ms. Watkins: Yes, in rapid order.

The publicly funded education system in Ontario has undergone many significant changes over the last 11 years. One of the unintended consequences has been an increase in the number of high school students who leave without graduating. While the current government has made publicly funded education a top priority in its mandate, there is much that remains to be done. Many within the education sector have concerns about portions of Bill 52.

When a young person makes the decision to leave high school, there are many contributing factors. Most of these have been documented and described fully by Dr. Bruce Ferguson of the Hospital for Sick Children in his research on school-leavers. Young people who were interviewed for the study commented about irrelevant curriculum, the level of difficulty of courses, the feelings of isolation and abandonment, and the lack of time and attention teachers were able to give them. In addition to the research done by Dr. Bruce Ferguson, there are telling statistics from Dr. Alan King's double cohort study supporting the need to focus on these students at risk.

In order to maximize every Ontario high school student's chances of success, the current government has demonstrated its commitment to students and student learning throughout their school careers with initiatives such as the curriculum review process, increased funding in select areas, smaller classes at the primary level, and the Student Success/Learning to 18 strategy.

It is the Student Success/Learning to 18 strategy that will undoubtedly have the greatest impact on the system for high school students. OTF's concerns with Bill 52 focus on the proposed amendments to the Education Act and the complementary amendments to the Highway Traffic Act. Among our concerns are equivalent learning, attendance, and linking compulsory attendance in section 21 of the Education Act to obtaining and maintaining a driver's licence.

The proposals in this bill which concern the teachers of Ontario most deeply are those related to equivalent learning. General reaction to the suggestion of an alternative diploma was extremely negative. The public reaction was shared by educators that a consolation diploma devalues the students and all student learning. An Ontario secondary school diploma—OSSD—should hold the same value and significance for every student in Ontario who earns it. There is more ready acceptance for the proposed high skills major diploma, partly because it does not change the intent, content or rigour of the OSSD.

The issue for the Ontario Teachers' Federation is the proposed provisions for equivalent learning, which the bill defines as "a learning situation that falls outside the instruction traditionally provided by a board and for which a pupil's success can be reasonably evaluated." As a legal construct, such a definition is extremely vague. While the framers of the bill may have intended to convey flexibility, the definitions are so loose as to be meaningless. They may, in fact, be counterproductive in opening eligibility to activities and programs which will not contribute to the government's stated policy of keeping students learning until 18.

The legal definition needs more precision and, at the very least, there should be a requirement for Ministry of Education approvals. Such approvals should be clearly defined in regulation. The regulation should outline the rigour in standards and accountability. The process for obtaining ministry approval should be more than a requirement to obtain a business licence.

Another concern of the teachers of Ontario in this section of the bill is the silence on accreditation or standards for those who would deliver these equivalent learning programs. Research tells us that teachers are a significant factor in student success.

One of the statutory objects of the Ontario Teachers' Federation is to enhance the teaching profession. In its more than 60-year history, OTF has continually promoted higher standards and greater professional development for Ontario teachers. This section of the bill has a legal loophole that undermines student access to the most qualified teachers in the country. The current language places no restriction on or definition of "instructors." Such an oversight leaves the door open to unqualified people.

Each school board operates differently in terms of attendance monitoring and counselling. The more support there is for students, especially those deemed at-risk, through regular use of attendance counsellors, social workers, child and youth workers, and other educational support workers, the greater the chances of success. Conventional wisdom has always told us that prevention is of greater value than cure. Investments in these kinds of programs that keep students in school will pay greater dividends than punitive actions.

School boards and individual schools have a wide range of policies and practices governing late and/or absences. Sometimes a parent is notified on a child's

third late; other times not until the 10th late. The term "habitually absent" needs a clear definition understood by all schools and boards. How will the attendance be monitored to include licensing? Will all students be treated equally? How will the payment of fines for non-attendance be administered by schools, school boards and for purposes of obtaining a driver's licence?

The Chair: Just to advise you, you have about two minutes.

Ms. Watkins: Fine. Currently, section 21 of the act deals with compulsory attendance from age five through 16. There is little evidence that tying compulsory attendance to the right of a young person to obtain and maintain a driver's licence will have the desired effect. There are some students for whom this proposed restriction has no relevance, but for others, not having access to a driver's licence is an unfair and disproportional burden. Some students living in urban areas might not feel a need to have a driver's licence whether or not they are full-time students. Many students from low-income families may never be able to afford the insurance to become drivers. Conversely, some students in rural or farming communities may be required to have a licence to help out with family obligations and circumstances.

In conclusion, the Ontario Teachers' Federation asks the government to take a closer look at the absence of clarity in parts of this bill. We share the government's goal in enhancing and strengthening the educational experiences of Ontario's more than two million students. Ontario's 155,000 teachers in our publicly funded schools are on the verge of meeting those two million students to begin a new school year. We want this year to give every student the best opportunity for success. Every student deserves a school career that ends with an OSSD. It would be most unfortunate if, due to imprecise legislative wording, the bill has the opposite effect and undermines student success. The Ontario Teachers' Federation remains willing to assist the government in rectifying these problems.

The Chair: That, almost to the second, concludes your 10 minutes, so I want to commend you on your punctuality and thank you very much for your deputation this morning.

Sausto Moreno?

LIGHTHOUSE CHRISTIAN ACADEMY

The Chair: Lighthouse Christian Academy, Ms. Van Pelt. Thank you for joining us this morning.

Ms. Deani Van Pelt: Thank you for the invitation to participate.

The Chair: Please begin by stating your name clearly for Hansard. You have 10 minutes to do your presentation. If you leave any time remaining, I'll divide it among the parties for questions. Proceed when you're ready.

1010

Ms. Van Pelt: I'll begin with an introduction of myself, several broad implications of Bill 52 and then

specific concerns that I have about Bill 52 as it applies to home-educated students.

I'm an assistant professor in the faculty of education, Redeemer University College. I'm the primary author and investigator of a study involving over 4,000 Canadian home-schooled students. I'm currently the principal researcher in a study of independent schools in Ontario. I've served as an expert witness on home-schooling. My husband and I have home-schooled our three children, and I'm active in a number of home-schooling associations. I'm a registered member in good standing with the Ontario College of Teachers. I've taught in both public and private schools in this province.

Bill 52 has significant broader public policy implications. This is not the focus of my presentation, but I'd like to point out two. The focus of these implications is the expansion of the mandate of the Ministry of Education. Where the mandate was once for six- to 16-year-olds, it's now expanding to include 17- and 18-year-olds. I've no reason to believe that the logic might not be extended to include mandatory participation for children under the age of six.

While the Ministry of Education once promised to provide a secondary school education for teacher-based, classroom-based education, it's now moving on to include education outside of these classroom settings. My concern is that boundaries be maintained for the reach of the Ministry of Education. I believe Bill 52 fundamentally expands the educational mandate of the Ministry of Education and is one of the most fundamental changes to the Education Act since its introduction. This may not be intended, but it's nevertheless a consequence of this bill.

Secondly, I believe parental responsibility is being subtly undermined by this bill. Employers becoming truancy officers and the high fine to children for non-compliance takes responsibility for our youth away primarily from parents and extends it to broader sectors in society.

While I offer these earlier observations as broad implications of Bill 52 for your serious consideration, I do want this government, if it's insistent on moving forward with a fundamental change to the Education Act, to consider the potential implications for 16- and 17-year-old students who are not pursuing a secondary school diploma through the public, separate or independent schools but are nevertheless in compliance with the Education Act, section 21, in pursuing their home education.

I'd like to refer you to page 6 of the written presentation that I've given to you. It's important that we understand section 21. A previous speaker probably hasn't read it lately because there was some suggestion that education is compulsory for five- to 16-year-olds. If you read it closely, it's six- to 16-year-olds. That's why I just want to take you on a quick look at section 21 of the Education Act. In my diagram, the first section shows that the following forms of education represent those that are in compliance with compulsory attendance. There are two sets of folk: those who are attending school—this is

the second layer of my diagram—and those who are excused from attending school. School, for the act, is any publicly funded school: English, French, separate or public.

Under those who are attending school are those in traditional OSSD-oriented programs. Now there is a proposal for equivalent learning—I assume those are OSSD-oriented programs—and then you've got exemptions. It's unclear to me if the exemptions go under those that are determined to be attending school or whether it is something outside of attending school and being excused from attending school. Those who are educated in private schools in this province are educated and in compliance with section 21, but they are called "excused" from attending school. Those who are home-educated fit in under this category as well.

So what's the issue? The students who are excused from attending school are not under the jurisdiction of a local principal or local school board, they are excused from that, yet Bill 52—I'm looking now at page 7 of my written presentation—only makes opportunity for compliance to be indicated or to be given by a local school principal. If Bill 52 would result in local school boards issuing compliance certificates for their local home-schooled students or, for that matter, their local orthodox Mennonite students—and I encourage you to look more closely at that community and the way they deliver secondary education—I would like to inform the members of this committee that we've been down this road before, and we have to learn from the horrific, invasive, discriminatory lessons of the past three decades.

This is a story of how home-educated students were treated in the past in Ontario, when local school boards, without an understanding of the philosophies, methods and outcomes of home-based education, took it upon themselves to determine if their locally home-schooled students were in compliance with clause 21(2)(a). Even though the Education Act has always allowed that a student is excused from attendance at school if that person is receiving satisfactory instruction at home or elsewhere—that is, home-schooling has always been legal in this province—each local school board, under a 1981-issued memorandum, opted for a wide variety of diverse interventions with home-educated students. Each school board designed a slightly different approach to interfacing with home-educated students, and because of the lack of understanding of home education, many approaches by local principals were extremely invasive. The issue was always, "Is satisfactory instruction occurring?" Sometimes well-intentioned, but more commonly deeply suspicious, local school principals invasively investigated their local home-schoolers, some with surprise visits demanding to enter homes and others with requirements for extensive reporting and personal interviews with children. Hundreds of families in the 1980s and early 1990s were referred for a lengthy inquiry process with the Ontario Ministry of Education, and yet we know of no cases where satisfactory instruction was ultimately found not to be occurring. These seemed to be

information-gathering methods for local principals and boards to learn about home-schooling.

This discriminatory, inequitable and invasive treatment of Ontario home-educated students was finally resolved in 2002, when the Ministry of Education issued PPM 131 to its school boards. It's not a law, it's not a regulation, but it told school boards to accept the fact that students are excused from attending school if they're given written notification by parents.

I caution this committee to allow for no such repetition of pre-PPM 131 attitudes towards home-educated students. For 20 years, home-educated students were treated under a pre-Charter of Rights and Freedoms memorandum. In 2002, this was finally changed. It would be a drastic step into pre-charter territory and treatment to move back to requiring the local public school principal to prepare documentation for home-educated students.

So what do I recommend? Well, Bill 52—and I'm on page 8.

The Chair: Just to remind you, you have about two minutes.

Ms. Van Pelt: Certainly. Bill 52 does propose opportunity for issuance of confirmation that students are compliant with section 21 of the compulsory attendance requirements. I encourage this committee, whatever legislation you ultimately draft, to continue in the spirit behind PPM 131, where the student's usual educator, in this case the parents, declare that they are meeting this requirement. This issue of confirmation should recognize that the child is excused from attending school.

I know other groups will be presenting to you some sort of a guarantor precedent that has been set with the passport application. There's another concern, though, and I haven't raised this yet. What about the home-educated students who have completed their home education but happen to be 17 and may be taking a break by having a year of employment before pursuing post-secondary studies or moving entirely into the world of work? How will these students be able to demonstrate that they have completed their education? Again, I suggest that parents ought to be able to complete a form, somehow with some method of a guarantor process with home-school authorities, and not work through their local school board to establish such credentialing.

While we applaud the recognition in this bill that learning can take place in jurisdictions outside of publicly funded, regulated, controlled, teacher-led, classroom-based educational settings, we are deeply concerned that this bill will result in placing the Ministry of Education—that is, the local school board and the local secondary school—in a position of authority over all these alternative educational settings.

We believe that publicly funded secondary schools should focus on providing the best classroom-based, subject- and content-oriented education that is possible and continue to respect that learning and education can occur in other settings, but they should not move into regulating, approving and controlling these other settings.

What looks and sounds like a partnership is an invasive measure.

The Chair: Thank you. That concludes the time you have this morning. I want to thank you very much for coming in and making your deputation. There will, unfortunately, not be time for questions.

HURON SHORES TECHNOLOGY CONSORTIUM

The Chair: Our next deputant is the Huron Shores Technology Consortium. Good morning, and welcome.

Mr. Bob Menard: Good morning. My name is Bob Menard. I'm here with Sandy Donald to talk to you a little bit about your legislative amendments and an organization that we've just newly created in the Bruce-Grey county area to assist in ensuring that high-quality training is delivered to secondary students in that location.

By way of introduction, the Huron Shores Technology Consortium is an attempt in the Bruce-Grey county area to pull together a number of divergent groups, which include school boards, employers, municipal governments, provincial funding agencies and anyone else who has some sort of interest and input into the coordination of the education activity we're talking about with this particular legislative amendment.

1020

With respect to our overall concepts when we approach this issue, we think there needs to be strong support for this approach, to ensure that education to 18 is meaningful and able to keep students in the classroom. We understand that there need to be a lot of choices in this process and we understand that there's a real opportunity to integrate some of the activities in the community into making those choices considerably more valuable.

The role of Huron Shores Technology Consortium in this environment is to assist all the different parties in pulling together a comprehensive plan for the communities that we intend to assist. We think this may be a model that other communities, as it gets developed, may be wanting to take a look at.

For the "need" point of this, what I'd like to do is turn it over to Sandy, who will describe some of the facts we discovered that make us believe that the integration of the legislation and community-based activities is a very important step forward.

Mr. Sandy Donald: Thanks very much, Bob. Good morning. The Huron Shores Technology Consortium has done something that is rather unique. As Bob was telling you earlier, we've taken local government, we've taken the district school boards, we've taken the large unions, we've taken large industry and we've taken the labour boards and brought them together. As you can imagine, it's like herding cats, but we managed to get all this together and it's actually working out really well. We came from a premise that we were going to be resolution-based. We were not going to be confrontational, regardless of what facet of the industry we came from. What

we've slowly but surely done now is started to liaise with some of the colleges, and we're starting to make network friendships and acquire business partners. It's giving us the ability, we believe, in grades 11 and 12, to meet the government's amendment to the Education Act under Bill 52, where we will give the children and youth some choices.

We also believe we are in such critical need, especially in the rural areas in this province. We have an inordinate number of young people who are not achieving their graduation—45,000, 50,000 people. That's not acceptable to us. To us, it's a waste of human beings. We really believe that we've got to start getting our kids into decent, meaningful jobs. Now, we're all sitting around here and, apart from the ladies, basically we're sitting with nae hairs and grey hairs. We're getting to the point where we're getting old. My dad said to me a few years back, "You'll know when it's time to retire." Well, it's time for me to retire. We have got to get our kids in behind us so we can get them into the trades. We have come up through the trades and we're seeing support from everywhere that we go. There is not any person we've approached who is not supportive of this mandate of going forward to provide tradespeople for the next 20 to 30 years. I think the provincial government's part is to allow these choices to take place. I think the provincial government's part is to get people who have come up through the trades to speak out, to tell the kids that there are choices out there. There are immense choices out there. There are good-paying choices. There are choices that will put meat and potatoes on plates for a long period of time.

I'm going to pass over to Bob to conclude the remarks, but be aware that we are here to support the government in this. If you need a hand, we will try and help you out. The model we're working to is not perfect, but it's coming.

Mr. Menard: Just to pick up on some of the points that Sandy made and to give you some data that we found, Canada will be short a million skilled tradesworkers in the next 15 years. The average age of skilled trade and other workers in Ontario is about 50 years old, and in some cases well above that. The local area that we're working for, the Bruce-Grey area, relies heavily on skilled trades and other employable workers to provide a robust economy, and we're consistently seeing an out-migration of youth in that area who need to go someplace else to get the required education that would allow them to get these high-paying jobs. And when they leave, they often don't come back.

Just to contrast that against what Sandy has mentioned with respect to the current system and how students are surviving, 32% of voluntary high school students don't gain enough credits for graduation and they will earn, on average, 40% less than those who do graduate. We just see that there's an opportunity here to put these two issues together, along with what we're talking about as a model. Basically, for this area, the Huron-Grey area, we've tried to pull the resources together, as Sandy said,

of employers, local governments, unions, local boards of education, colleges, universities, apprenticeship programs, as well as community agencies, parents, students and workers, and basically create a one-stop shopping environment where we can coordinate information, coordinate programs and ensure that there's a seamless delivery of all the different services that would require achieving a higher level of high school attendance.

Generally, in conclusion, what we're trying to do is assist the area in getting meaningful, good-paying, long-term work for the youth and others; fit in with the government's mandated learning-to-18 programs for schools; serve clients challenged with equity considerations; establish skilled trades training programs; identify and fill gaps for local employment needs other than those of indentured trades; coordinate with schools, colleges, universities, other trainers and employers to ensure seamless transition through the education and training system; develop a local labour pool that has adequate skills for a highly technical and competitive global marketplace; and retain and expand our social and economic well-being in the Huron Shores region.

That pretty much concludes our remarks. Thanks for the opportunity to make—Sandy, did you have anything to say?

Mr. Donald: Yes, I had one more thing to say. The folk we are looking at here—as we get the youth migrated into the right things, we're then going to tackle the underemployed. We have a tremendous number of people who are underemployed. I'm part of the Women's House of Grey-Bruce board, where we look at specific issues surrounding women and gender-definitive issues. There are a tremendous number of smart women out there who are not realizing their earning capacity. The government of Ontario, I believe, should then start to focus, after this, on underemployed people. There are a tremendous number of people who, once we can get them back into that system you're looking at right now—you may be able to bring them in so that they can get qualified and they can make decent wages and they can look after their kids. This will also take the burden off the provincial government in some respects.

We're making a real good start here. We know that the wheels will slip and grind and won't go very fast all the time—we understand that—but we're here to help you. If you need a hand, please contact us. Thank you all very much.

The Chair: And thank you. That, to the second, concludes the 10 minutes that you've got, so I compliment you on your remarks.

MISSISSAUGA CHRISTIAN HOMESCHOOL ASSOCIATION

The Chair: Our next deputation will be the Mississauga Christian Homeschool Association, Anne Culham, please. Good morning and welcome. You will have 10 minutes to do your deputation this morning. If you leave any time remaining, I'll ask one or more parties to pose

some questions to you. Please begin by stating your name for Hansard, and proceed.

Ms. Anne Culham: Ladies and gentlemen of the standing committee, thank you for allowing me to come and speak to you this morning about my concerns with Bill 52. My name is Anne Culham, and I am the administrator and spokesperson for the Mississauga Christian Homeschool Association, a home-school support group for families in Mississauga and the surrounding area. The group I represent has 70 member families, with a total of 162 school-aged children, of whom 52 are in high school.

Alexander Graham Bell, Orville and Wilbur Wright, Claude Monet, John Wesley, Abraham Lincoln, Mark Twain, Charlie Chaplin, George Washington Carver, Winston Churchill, Charles Dickens, Florence Nightingale, Benjamin Franklin, Albert Einstein, C.S. Lewis, Dietrich Bonhoeffer, Pierre Curie—these famous people are well known to us today. They were writers, scientists, inventors, statesmen and thinkers. The thing not so well known is that all were educated at home.

Following in the footsteps of these great home-schooled pioneers are children and youth who are becoming well known for their educational excellence, who are being accepted from home-school into colleges and universities across Canada and who are making their mark in society. Although still a small fraction of the school-aged population, there are currently between 20,000 and 30,000 children in Ontario who are home-schooled. The parents of these children are intensely interested in the education of their children. Educational policy statements and new legislation are closely examined for their potential impact on their home-schooling choice.

1030

Bill 52 will amend the Education Act by raising the compulsory age of school attendance to 18 and by making complementary amendments to the Highway Traffic Act. There is one point in Bill 52 that is of special significance to youth who are educated at home, and it is the subject and focus of my presentation, the section that deals with “Request for confirmation.”

Before I discuss the issue of Bill 52, let me present some facts. Home education, once considered a fringe movement, has taken its place in society as a viable and realistic choice for many families. A recent Canadian study has found that less than 2% of home-educating parents were educated at home themselves. What would make parents who were educated in an institutional setting take such a step with their own children?

Parents are increasingly interested in home education because of the superior results that have been published in study after study. The largest Canadian study, conducted by Deani Van Pelt, found that children educated at home achieve superior results from an academic, social and civic perspective. Academic results from Canadian achievement tests show that ninth to 12th graders achieve at the 85th percentile in reading, 84th percentile in language and 67th percentile in mathematics. Where students were educated solely at home, unmixed with

institutional and home-schooled experiences, the results were higher.

Contrary to common perception, home-schooled children are well involved in community activities and events. The study found that home-educated students participate on average in eight different extracurricular activities per year. Parents involve other adults in their children’s social and educational experiences, with their children taking lessons, tutoring, and group and co-operative learning. Over 70% belong to a local home-school support group such as ours, which provides ample opportunities for their children to socialize with their peers.

As adults, those who were formerly home-schooled hold responsible citizenship as a core value: 72% vote, less than 7% have ever collected employment insurance benefits, and none have received social security assistance. Over 80% volunteer in one or more capacities in the community, and virtually all have moved on to further education or have become active in the workplace.

Of course, there are costs and benefits in choosing to educate children at home. The typical home-schooling family is a two-parent family where the father is the primary income earner and the mother is the home educator. Most families exist on a single income. The direct costs for this form of education are approximately \$700 per year per child. The motivating factors for parents who educate their children at home, seen as real and tangible benefits, are strong family relationships, the ability to directly influence the child’s moral environment, and superior academic achievement. Home-schooled students report having highly satisfactory lives. All this is said to present the home-schooling community as one that is ahead of the curve in providing alternatives to learning that keep their children engaged and enthusiastic about their education.

Let’s turn to the central concern of home educators regarding Bill 52. It deals with the section on “Request for confirmation,” which states: “... in the case of a person who is not enrolled in a school of a board, a person designated by any board in whose area of jurisdiction the person resides” can provide the necessary confirmation. As a home-schooling community, we are opposed to this requirement for the following reasons:

—Since a youth who is educated at home is legitimately excused from attendance at school, we do not see the need to involve the school board in proving confirmation of school attendance.

—We feel that the school board would have difficulty in legitimately giving confirmation of attendance for home-schooled youth.

—Many parents of home-schooled youth would not willingly allow their children to go to a local school board for confirmation of attendance; rather, they would have their youth wait until they were 18 before applying for a driver’s licence.

—Home educators generally believe that a request for confirmation of attendance would become an opportunity

for the school board to question the adequacy of instruction of youth being educated at home.

—Many home-schoolers have a deep-seated mistrust of the school board, some of this being through personal experience and some through anecdotal stories told by family and friends.

As a home-schooling community, we would like to see Bill 52 amended to include an additional bullet that is applicable to youth being educated at home. As such, we propose that the section under “Compliance with s. 21, driver’s licence” be amended to include a specific statement on how youth who are educated at home may provide confirmation.

In collaboration with OCHEC and the Ontario Federation of Teaching Parents, we have developed a form to be used by home-schooled youth, a copy of which is included in the appendix in your handout. You’ve seen this already. The form’s content, structure and intent are based on a passport application. It presents an individual’s claims, and the claims are confirmed by a guarantor who is a member of a professional body and who has known the home educator and the youth for at least two years. We propose that the same type of confirmation used in a passport be used to confirm school attendance for home-schooled youth.

We propose that the home-schooled youth present the form to the Ministry of Transportation when applying for his or her driver’s licence, and the form be retained by the youth and not the Ministry of Transportation. It would simply be presented as legitimate evidence, much like a birth certificate or social insurance card. After confirmation of school attendance, the form would remain in the youth’s possession.

The Chair: Just to remind you, you have about two minutes.

Ms. Culham: In summary, we are in agreement with Bill 52, except in the area of confirmation. We support the tone and the intent of the bill to provide students with differing learning methods and an environment where they may succeed and graduate. Home-schooling is an educational choice that has come of age. It is a proven and successful method of training young people to become mature, healthy and contributing members of society. We want to ensure that the bill does not negatively impact youth who are actively engaged in their education at home and want to receive their driver’s licence at the first available opportunity.

Again, thank you for allowing me to address you this morning. Are there any questions?

The Chair: We would have time for one question, Mr. Klees, presuming it will be a concise preamble.

Mr. Frank Klees (Oak Ridges): I just want to thank you for your presentation. You have been very consistent with the others we’ve heard on this issue. We’re hoping the government will see the wisdom of accepting your recommendation. We will certainly be putting forward an amendment for this committee to consider, and we hope we’ll get support from the government to ensure that this will be adopted as part of the changes to this act.

Ms. Culham: Thank you.

Mr. Klees: Thank you.

The Chair: Thank you very much for coming in this morning.

Ms. Culham: Thank you.

LANDSCAPE ONTARIO HORTICULTURAL TRADES ASSOCIATION

The Chair: Our next deputation will be from Landscape Ontario: Terry Murphy.

Good morning, and welcome. You’ll have 10 minutes to make your deputation. If you leave any time remaining, I’ll have a chance to assign one or more questions from the various parties. Please begin by stating your name for Hansard, and then proceed.

Mr. Terry Murphy: Terry Murphy, Landscape Ontario.

I represent a trade association with 2,000 members. Our industry in Ontario is an \$8-billion industry with 100,000 workers and 10,000 firms, so it’s a large industry.

Mr. Chairman, since we started 20 minutes early, I hope you won’t hold me to the 10 minutes, but thank you.

The Chair: I will hold you to the 10 minutes.

1040

Mr. Murphy: What is our interest in Bill 52? The major interest for Landscape Ontario is a tremendous shortage of labour. We can’t find enough good people to work in our industry. The government should be congratulated for this step in certain aspects, and the certain aspect I’m speaking of is the endeavour about the specialist high skills major. This is absolutely outstanding.

Don’t forget that the landscape industry is a tremendously important industry, because that’s where we get our oxygen: from plants. Young people need to know this, and the more we focus on the aspects of landscaping and its benefits to mankind the better.

Let me just mention that I think this will have a tremendous effect in general society. I think 16-year-olds are too young to work. What do you know in this life until you’re 40 years old? I think staying in school till 18 is good. The specialist high skills major is going to allow them to focus on the four pathways that exist, and many of those who are having trouble academically and who want to focus on a trade will be able to graduate from grade 12 with a major in particular subjects, such as landscaping.

I think this bill will help to keep more people working earlier in life and provide tax revenue to the system. I think it’s a great step because, obviously, having young people between 16 and 18 years old hanging around the malls is going to—have them in school. That’s where they should be. It will also lower the crime that we have in our society.

I congratulate the government for an attempt to return to the trades. To me, this is full cycle. I think govern-

ments have been remiss over the last 25 years in letting the trades escape the system. We need to focus on our co-op and guidance teachers in a big way, to make sure that they are explaining to young people—and I'm talking even about the elementary grades; that they have a good focus on the trades.

Again, I hope this bill will make a small attempt to fulfill a shortage in labour that we have, particularly in our business. If you look at 100,000 people working 40 years in their lifetime, we're losing 2,500 to 3,000 people each year. Our colleges are producing 300 graduates. I could probably put 5,000 young people to work this minute, but we can't find them—and I'm talking about skilled labour. I think the bill will help support this.

The penalties that you're proposing in the bill: I ask you to look at the penalties, the fines. Think of a single mother and a young person who is an offender under this. The mother is on social service and having trouble making ends meet, maybe going to a food bank, and all of a sudden you present them with a \$1,000 fine. Well, you and I know that you're not going to get any money. You can't get blood from a stone. I think the same thing applies to people who want to drive a car. If you prevent them from getting a licence, we'll get a society of young people out there driving automobiles without licences. We may be opening a can of worms here. I'm asking you to have a look at this.

In 10 minutes, I can't offer you solutions. I asked someone from our organization, "What do you think of the presentation?" and he said, "Don't bring a problem to someone without a solution." I believe that, but I can't give you a solution in this short a time. If you're having further hearings on it and you want someone to participate in a committee or whatever, I'd be pleased to step forward.

Members of our association support Bill 52. We really are excited about the specialist high skills major.

I think people such as Grant Clarke, Aldo Cianfrini, Audrey Cartile, Chantal Locatelli, some of the Ministry of Education personnel, are doing a fantastic job.

I thank you for the opportunity to make the presentation today.

The Chair: We should have a little bit of time for questions, beginning with Mr. Marchese.

Mr. Rosario Marchese (Trinity-Spadina): Mr. Murphy, I agree with you about the whole problem of fines. As New Democrats, we attack this government for imposing these kinds of penalties, because we think they're not very intelligent, including the fact that if you link a driver's licence to attendance, that creates a problem because, as you said and as others indicated yesterday, they might end up driving without insurance or having a licence. That's a problem. But you indicate or you make it appear that this bill is about getting students into the trades. This bill is not about that. If it were, they would be introducing a different kind of bill. This bill is about forcing kids to stay in school until age 18. We believe it's a dumb idea. We believe there's no evidence anywhere in the world that shows that if you keep them until 18, they're going to stay.

The real problem that most of the people came to talk about yesterday is that a lot of students who leave after age 16 have certain problems. It could be that they suffer from fetal alcohol spectrum disorder; it could be that they have learning disabilities; it could be that these students have problems of sexual abuse or substance abuse, so that complicates the learning. It could be that some students simply don't enjoy the kind of curriculum that they were experiencing, and maybe you should make it more meaningful. There are a variety of reasons why there's a problem. This bill doesn't really tackle that. That's why we have a problem with it and we believe it shouldn't be passed. What do you think?

Mr. Murphy: Well, I couldn't disagree with you more. If we look at the fine print in the legislation and we look under "equivalent learning," we're looking at specialist high skills major programs. If the NDP understands where this will lead, a young person will come out of a grade 12 class with a skill that they can go to work immediately with, go into apprenticeship, further go to college, perhaps with a dual credit, or university. I totally disagree with you. This, to me and our industry, totally focuses on the trades. I suggest you read the fine print in the legislation and find out more about the specialist high skills major. I think this is phenomenal; I congratulate you. Keep up the good work, and educate the people who don't understand the fine print.

Mr. Marchese: Mr. Murphy, if you look at the fine print, this government is holding students from age 16 to 18 on the basis that they're providing this equivalent learning option. So—

Mr. Mario G. Racco (Thornhill): The gentleman has provided an opinion, Mr. Marchese.

Mr. Marchese: The Chair is giving me time to complete the question. Is that okay with you, Mr. Racco?

The Chair: Mr. Marchese has the floor.

Mr. Marchese: We're going to hold students from age 16 to 18 on the basis that we have an equivalent learning option. My point is that if students are having learning problems, this is not going to solve them. I don't disagree with you that we should be offering meaningful options to students, and they could include the trades, and we should be looking at how we do that. The government claims they've already done that. Well, if they've done that, then we don't need this bill. If we need another option, why don't we include that in the education system as a way of arriving where you want to get to, which I agree with? But this bill won't get to the trades simply by saying that all of a sudden we've got an equivalent learning option and that's going to get to the trades. This is not the way to do it.

The Chair: Thank you. Mr. Murphy, if you wish, you can have a few seconds to summarize.

Mr. Murphy: No. I just would like to say that I would agree to disagree, and thank you for the opportunity to make my presentation.

The Chair: Thank you very much, Mr. Murphy.

Ms. Kathleen O. Wynne (Don Valley West): On a point of order, Mr. Chair: I'm not a regular member of

this committee; I'm just here because I'm the parliamentary assistant on this bill. But my understanding from other committees that I've sat on is that when there's a substantial amount of time, that time is divided among the three parties. We all know that Mr. Marchese will fill whatever amount of time he's given, so—

The Chair: And when there isn't a substantial amount of time, the Chair will assign—

Ms. Wynne: You had said initially, Mr. Chair, that there was going to be time—

The Chair: When there isn't a substantial amount of time, the Chair will assign one question in rotation. Thank you very much, Mr. Murphy.

HIGH DAY

The Chair: Our next presentation will be the HIGH Day home-school co-operative, Lisa McManus.

Ms. Lisa McManus: Good morning.

The Chair: Good morning. Welcome. You'll have 10 minutes for your deputation. If there's time remaining, we'll be able to assign it for questions. Please begin by stating your name for Hansard and proceed.

1050

Ms. McManus: Thank you for having me this morning. My name is Lisa McManus, and I'm a home-schooling mother to four children, ranging from junior kindergarten to grade 5. I'm also the administrator and general counsel to Grace Community Church in London. Today, I am here speaking on behalf of HIGH Day, a home-school co-operative. I'm also on the executive of that group.

HIGH Day is composed of 50 families. We meet weekly throughout the school year for the purpose of enrichment for the children and social support for the families. This September, we will meet with 150 children.

I'd like to thank Deani Van Pelt for her research on this home-school issue and for the portions of that research that were presented to you by Ms. Culham this morning. That research demonstrates that home education is successful in instilling a love and desire to learn in the youth who are home-schooled and they go on to become productive members of the community.

Revisions are needed in Bill 52 to protect and maintain the exemption from compulsory attendance that home-educated youth are guaranteed in the Education Act.

It has been said that "in the very definition of the term 'law' there inheres the idea and principle of choosing what is just and true." The punitive measures of Bill 52 extend to home-educated youth by virtue of the mechanics of the request-for-confirmation section. This is not just. A law should not extend its punitive measures to an unintended group of people.

The intent of Bill 52, according to its preamble, is "to instil in young people a lasting, positive attitude toward learning that will keep them motivated to stay in school until they graduate or turn 18 ... whether it is in the class-

room or through equivalent learning opportunities, such as an apprenticeship or workplace training program."

In short, Bill 52 seeks to lower the rate of high school dropouts. Bill 52 seeks to do this with a punitive approach. It sets out to legislate learning by withholding a great rite of passage for youth—being granted a driver's licence—and also by limiting employment opportunities.

While I support the idea that youth need broad options in terms of learning, I wholeheartedly disagree that the punitive portion of the law should in any way be an impedance to a home-educated youth applying for a driver's licence or seeking employment.

From an economic analysis, you should be concerned that the people designated by school boards for the purposes of dealing with compliance requests—I'll refer to them as compliance officers—not be burdened with unnecessary requests for confirmation of compliance with or exemption from compulsory attendance. Compliance officers will be overwhelmed with sorting out the endless equivalent learning requests for confirmation. Further, the negative impact of Bill 52 on home educators will largely rise and fall on the individual personalities of the compliance officers. An officer who is biased against home education will have the means to withhold a youth from applying for a driver's licence.

I support the form that was presented to you, I think yesterday, and that Ms. Culham also included in her report, her written submission. The form is entitled, "Confirmation of high school attendance for home-schooled youth." I understand that this form is being endorsed by a number of groups, including the Ontario Christian Home Educators' Connection, the Ontario Federation of Teaching Parents, the Mississauga Christian Homeschool Association, as well as the Home School Legal Defence Association. With this form in place, I believe the impact of Bill 52 on home-educated youth would be reasonable.

I implore this committee to be responsible to ensure that Bill 52 is amended to reflect the idea and principle of choosing what is just and true. Thank you.

The Chair: Thank you very much. We should have about a minute per party on this deputation, beginning with Ms. Wynne.

Ms. Wynne: Two points and a question. First of all, I think you know, and other groups that we've talked to understand, that it was never the intention of this bill to interrupt the good home-schooling that goes on in the province. That was never the intention. To that end, I have met with a number of groups, including Anne Culham, who came to my office. We're very aware of the form. In fact, the ministry has got the form and we're working on those mechanisms.

The question I have for you is, given the intention of the government to expand the learning opportunities for students and, I think, in some ways, learn from some of the things that home-schoolers already do in terms of connection with the community, do you think we're moving in the right direction on that front?

fact that they needed them to have a licence in order to serve the needs of the family.

Mr. Klees: So if they have a job, if they have a legitimate place to be, your recommendation is that the exemption should be applied.

Ms. Noda: Exactly, because otherwise they would be abusing the school system. They would say that they're registering, but not register, and we're listed with these no-shows that are taking spots that we can't give to legitimate students.

Mr. Klees: To whom do you envision that exemption application being made?

Ms. Noda: I believe that if I was about to get a licence, and I was 17 years old and not in school, I would go to the driver's licensing board, get that form, take it back to my employer and/or family and then return that.

The Chair: Thank you very much for having come in this morning.

JAKE BLOOMFIELD

The Chair: Mr. Jake Bloomfield, please. Good morning, and welcome.

Mr. Jake Bloomfield: Thank you for inviting me.

The Chair: Before you begin, you have 10 minutes for your deputation. If you leave any time remaining, I'll assign it to the parties for questions. Please begin by stating your name for the purposes of Hansard and then proceed.

Mr. Bloomfield: Hello. My name's Jake Bloomfield. I'm 17 years old and I'm going into grade 12 at Streetville Secondary School in Mississauga. I'm here today to speak to you about my co-op education experience and the benefits it gave me.

I was enrolled in the co-op class in the second semester of my grade 11 year. Various placements were found for the 14 students in my class, including a radio station, a motorcycle company, a school, a music label, an emergency medical service, the military and a computer company. As you can see, placements covered a wide range of interests that my fellow students had and gave them a unique opportunity to find out if they would like to pursue this field of work as a career. We each worked in our own placement for two full weeks, usually seven-to-eight-hour days, and then went to school for one day where we talked about safety and the personal skills you need in any job.

1110

The placement that I had was at HP, Hewlett-Packard, in their credit and collections department. Some of the tasks that I performed at HP were printing off invoices, making photocopies of documents, picking up the customer hotline—which is where customers leave questions if they have a problems about their invoice or product—offset accounts and other tasks that the accounting clerks may have had. Over my four-month co-op period, I learned so much about how a company works and about myself. Some of the things that I learned about myself

are that I need to trust other people, not to get stressed as easily, to be organized and learn how to prioritize tasks.

In regular high school classes, I had really found it hard trusting other people when I was doing projects because more times than not other people didn't complete their part of the project, so I had to do most of it. I was always a leader in school. During my experience at HP, it was hard for me to get used to the idea that when someone said they would help me when I was overloaded, they actually came through. Before I started at HP, I always got stressed over the projects I was doing. During my time at HP, I found out that I felt a lot better about myself and I did a lot more, faster, when I didn't stress over it. HP also helped me to be more organized because I got used to working with Microsoft Outlook, in which I put all the important dates and meetings that I needed to remember.

In school, all the teachers had knowledge of my learning disabilities. While this is a good thing, it was very refreshing to be in an environment where my co-workers treated me as an equal and didn't have any preconceived assumptions about what I can and cannot do. Also, this gave me a really good feel about working in the real working world.

As you can see, I spent a lot of time talking about my personal development. I also had the opportunity to learn an accounting system called SAP. This system is used in many large companies, and I wouldn't have this unique opportunity to learn it at any schools.

Working at HP for my co-op placement gave me more confidence for when I was looking for a summer job. I now have better skills to help sell myself. I would highly recommend co-op education for every student attending high school. No matter what field you wanted to go into, there was always a placement for you. Everyone in my co-op class thoroughly enjoyed the program and found it most valuable. I am most pleased that the government, through Bill 52, is planning on expanding the co-operative education programming, thus offering alternative learning opportunities for students. Thank you for allowing me to talk to you about this important topic.

The Chair: Thank you very much, Jake. We should have time for one short question from each caucus, beginning with Mr. Marchese.

Mr. Marchese: Jake, I think all three political parties agree that co-operative education is a good thing. You're 17, and you were doing it voluntarily.

Mr. Bloomfield: Yes.

Mr. Marchese: Do you think—because that's what this bill does—that students should be forced to stay until age 18, whether they like it or not, whether they have problems or not? That's what this bill does. It forces students to stay in school until age 18.

Mr. Bloomfield: I don't think we should force any students to stay until 18, but make the learning experience more towards the students, towards what they like. If co-op education is open to all students for grade 11, it will make them want to stay longer because it will make them have a different experience than sitting in a class-

room and just reading out of an old education book and doing math homework and all that. It gives them a unique experience.

The Chair: Ms. Wynne?

Ms. Wynne: I'll pass.

The Chair: Mr. McMeekin?

Mr. McMeekin: Jake, thanks so much for coming out and sharing in this. I live out in Waterdown. We have Waterdown District High School out there, which my daughter, I'm pleased to say, just graduated from. She's off to Ryerson this week. I'm really pleased about that. She tells me and others at the school tell me that there are about 40 young people who have taken the decision to stay in school primarily because of the co-op program. Jake, do you resonate with that experience? Is that a true thrust, that there are young people staying in school because of the two co-op credits and expanding that?

Mr. Bloomfield: I actually took a four-credit program, which is full days. But yes, ever since I heard about the co-op program I wanted to stay that much longer. I couldn't wait until I got out of class and took what I learned and used it in the real world.

Mr. McMeekin: So it was a real encouragement for you.

Mr. Bloomfield: Oh, yes. It was an experience. It wasn't so much that I got out of school; it was more that you learn so much about yourself that you can't learn in school, about how you work and how you interact with other people who like the same field as you do.

Mr. McMeekin: Jake, that's an incredibly important perspective, and I really appreciate your sharing it this morning.

The Chair: Mr. Klees?

Mr. Klees: Jake, thanks so much for being here. I really enjoyed your presentation. Congratulations on how well you're doing.

I have just a couple of quick questions for you. Do you have any friends or people you know who have dropped out of school?

Mr. Bloomfield: I know some people, but they usually come back later on.

Mr. Klees: Isn't that interesting? That was going to be my point. Most of the experience is that young people drop out for reasons; some are personal. Would you agree that a lot of times it's because what's going on in the classroom isn't interesting them but when they find something that is of interest, they get ignited? They same way that you did. You got interested in something, you enjoyed doing it, and all of a sudden you got to experience some success at it.

Mr. Bloomfield: Of course, it's all about interest. Just sitting in a classroom for 11 years until you're able to do co-op, it becomes repetitious. Pretty much everybody in high school has somewhat of a short attention span. It may be longer than other people, but once it becomes repetitious—

Mr. Klees: So would you agree that it's really important that what the school should be doing is getting young people interested and making sure they have

courses that they can be motivated through, and that will be successful, rather than forcing them to stay there against their will? Would you agree with that?

Mr. Bloomfield: Yes. I would say that if there was more variety in the courses, that focused in more on the type of work, like in autobody but more focused, more people would stay because it's what they like to do.

The Chair: Thank you, Jake. That concludes your deputation. Certainly as the member representing Streetsville Secondary, I especially thank you for your deputation this morning.

Mr. Bloomfield: You're welcome.

The Chair: This committee stands in recess. We will reconvene in this room at 12:50 p.m. Our next deputation will be at 1 p.m.

Mr. Marchese: Mr. Chair, may I ask you a question?

The Chair: Mr. Marchese.

Mr. Marchese: Is there anyone who would otherwise be deputing in the afternoon who is here now who might want to present now?

The Chair: Mr. Marchese actually raises a point. Is it the will of the committee that if there is someone in the room now wishing to make a deputation—okay. Is there anyone in the room at the moment planning to make a deputation this afternoon who wishes to make his or her deputation right now? Going once, going twice.

This committee stands in recess. Our next deputation will begin at 1 p.m. I'll expect people to be back here at 12:50.

The committee recessed from 1122 to 1300.

BRENDAN RYAN

The Chair: Good afternoon, everyone. This is the standing committee on the Legislative Assembly. We'll spend this afternoon considering Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act.

Our first deputant this afternoon is Mr. Brendan Ryan. Welcome. Make yourself comfortable. You'll have 10 minutes for your deputation. If you leave any time in that 10 minutes, I'll assign it to the parties to ask you questions. Please give your name for the purposes of Hansard and then proceed.

Mr. Brendan Ryan: Thank you very much, Mr. Chairman, ladies and gentlemen. My name is Brendan Ryan, and I thank you for the opportunity to speak to you today. I spent my career in teaching. I was both an elementary and a secondary school principal. When I retired, I served as director of what was then the Brant County Separate School Board. In addition, I've been somewhat passionate about education in the sense that while working in it, I also at one time served as a trustee and as chairman of a public school board and am currently, even in retirement, involved as a member of the board of governors of Mohawk College and do some work part-time for the Nipissing Faculty of Education.

All that being said, I want to make it clear that today I am here speaking as an individual, as a citizen interested in education, and that none of the institutions or bodies that I have mentioned should in any way be blamed for my meandering. It's my own foolishness.

When I came to this country in 1965—and I may add that Dave Levac was in the first class I taught when I came over here—I was struck by the wonderful sense of egalitarianism and opportunity that was created by the public system of education in this province. It really provided opportunities for children from all strata of society to progress on merit and to aspire to better their circumstances. It was a pipeline of hope for immigrants who came from all parts of the world and for their children to have opportunities to move on into circumstances that would have been unthinkable in many of the societies that they had left. That dream is still there, and the education system still remains a magic carpet that can transport people into the future.

However, times have changed, and if we truly value something, we must always look at it critically to make sure that it meets the needs of today's society and the students we serve today. Today, you do that as you consider extending the mandatory school attendance age to 18. When Minister Kennedy, who was the minister at the time, announced the proposed extension, he described it as a major and important step in that it was the first change in attendance in 50 years and that it deserved serious attention and debate. I agree with those sentiments entirely, and I support wholeheartedly the notion of extending the age to 18. It is unfortunate that the corollary, as it were, of drivers' licences got attached to this very important piece of legislation. I consider the matter to be of dubious value in the first case, and it saddens me even more in that it has distracted attention from the very serious matter of extending the school year into the business of whether or not kids should drive.

There can be no doubt, though, if we look at it, that one of the reasons this bill was introduced was the figures that say that 70% of the students in the province of Ontario graduate from high school and that 30% of the students in the province of Ontario do not. In other words, because of that we are going to mandate that students who want to drop out of school must stay in it until they reach the age of 18. We're putting in a gate to stop them from leaving, and while I agree they should stay, we should go back and look at the fons et origo of the problem: Why is it that they want to get out of school in the first place? We must not move forward in putting in new situations alone but also look back and re-examine the current situations so that we can encourage far more of them to stay.

I recognize that the government—and apart from my friendship with Levac, I have no particular political bias to carry—has added considerably to the monies that are put into education in the past number of years. They've introduced a number of new programs, capped class sizes—and student success and everything else. But much of this money has been directed at those specific types of programs, and indeed, much of that money has

been spent to provide leadership positions for those programs to ensure that they go on there.

Very often, in our large and increasingly bureaucratic school boards, these programs become discrete little empires that operate, as it were, almost outside of the fabric of the total education system. I think, when we look at the education system, we find certain imbalances and inequalities. I quote from the Royal Commission on Learning Report: Short Version, Ministry of Education, page 3 of 7: "We spend ... significant sums of money on remedial and special education programs which are too often ineffective." And from the same page later on, in the same paragraph, actually: "a significant minority" of students do not make it through high school; and then, "among some disadvantaged groups, that minority comes perilously close" to a majority. I think we must do something to look at those types of things, not moving forward alone. We must move to solve the quagmire that is special education, where well-meaning teachers are frustrated by spending up to 30% of their time filling out forms and reports and all sorts of memorabilia that have got very little to do with teaching as such.

Another matter, of course, is the whole business of the funding formula. Quite frankly, it doesn't work. I'll quote from an editorial in the Toronto Star of Friday, September 2, 2005. It was talking about the Toronto schools, but it could have been talking about any schools at that time. It says that the parent network, which tracks programming costs, said in its eighth annual report that tens of millions of dollars which had been allocated for English-as-a-second-language education was instead being used to pay for various things such as light bills and the normal operating expenses. When that happens, we are taking away something from the immigrants that they should be having, and we must look at and remove those types of inequalities.

So that is part of the business of looking: We must look back at where we are, as well as moving forward, if we really are serious about keeping our students in school.

Let's look at some of the strategies that are in the proposed legislation: increased liaison with community colleges, increased work experiences and apprenticeship programs, extended co-operative education, recognition of other bodies and everything else. Everybody would be in favour of those. All of these are immensely laudable and should be explored, but there's a huge amount of work to be done before these noble-sounding ideas become reality—

The Chair: Just to remind you, Mr. Ryan, you have about two minutes.

Mr. Ryan: —and we must move forward on those to make sure that they do it. They must be funded. Opportunities must be set up for teachers to receive instruction. Opportunities must be set up and a format put in place so that liaison between colleges and boards of education becomes the norm rather than the exception.

It may sound as if I am being critical of the current system and the proposed changes. Nothing is further from the truth. I believe that we must move forward. I

believe we must keep students in school until age 18. Years ago, the United Negro College Fund had the slogan, "A mind is a terrible thing to waste." If 30% of our students are not graduating from high school, we have a huge amount of waste, and we must do something about it. We must do that by new methods and by old methods, and I appreciate the fact that you are taking time on behalf of the youth in this province to do that.

The Chair: We should have time for just one brief question. Ms. Wynne.

Ms. Wynne: Thank you very much for being here. I don't have a question. I just want to say thank you for paying attention. I think it's really important that we hear from a range of people. It sounds as though you're pretty supportive of the idea of expanding what we mean by a classroom and allowing for some of the alternatives. In fact, if I had time, I could go through a list of projects that are actually happening around the province. They're already showing some success, and it's on that success that we're building going forward. Thank you very much.

Mr. Ryan: I was aware of them. Unfortunately, I got too verbose and used up my time.

The Chair: Thank you very much for having come in and for the thought and the effort that you put into your deputation.

HALTON INDUSTRY EDUCATION COUNCIL

The Chair: Next is the Halton Industry Education Council and Kelly Hoey, executive director. Welcome this afternoon. You have 10 minutes for your deputation. If you leave any time remaining, I'll assign it to the parties for questions. Please begin by stating your name for Hansard and then continue.

Ms. Kelly Hoey: Good afternoon, ladies and gentlemen, members of the committee. My name is Kelly Hoey. I am the executive director of the Halton Industry Education Council, as mentioned. I am delighted to be here today to have the opportunity to share our observations about Bill 52 and its intention to increase student success rates in Ontario.

HIEC is one of 10 business industry education councils in the province of Ontario and one of the founding members of the Ontario Business Education Partnership. The industry education council model has been in existence in Ontario for more than 20 years, with the intention of bringing industry, education, community and government stakeholders together to provide common solutions to shared issues in local areas.

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HIEC itself has been in existence in Halton for 17 years, with the intention of providing the vital link between Halton students and the world of work. We thought that was a really easy task when we started, and we had all kinds of ideas. As we've gone on, we've never had a shortage of good ideas, always a shortage of time and people. We have a vision to inspire youth in Halton to make informed career decisions. HIEC has enjoyed an excellent reputation in our own community of Halton,

throughout Ontario and even internationally as a leader in career development through strategic partnerships. As a matter of fact, in the last year we've had visitors from China, visitors from India and visitors from the US to look at our industry education council model.

We have worked diligently since 1989 to provide programs, services and resources to help youth in any manner possible to achieve success in their lives, and we have always known that this cannot be achieved in isolation. Over the years, other communities have referred to us as lucky, but the plain truth is that we have put a great deal of time and energy into creating a culture of partnership and innovation in the region of Halton. Over the last couple of years, the government of Ontario has increasingly recognized the local area models that are achieving high results, and through the Passport to Prosperity initiative has encouraged the central role that business and industry education councils and their partners can play at helping schools navigate relationships in their communities. There are actually 26 organizations in Ontario that work on that initiative.

I am here today to share with you some perspective on how the exciting transformation that is currently taking place in education is leading to increased opportunity for all students by extending the doors of learning beyond the classroom. And the difference is obvious. There is no doubt that young people need increased access to learning opportunities and adult role models and that the increased emphasis on equivalent learning, as it's called, is a positive step for education. Teachers, parents, industry and community stakeholders that we work with every day have great enthusiasm for working together to help build a viable workforce for the future, to do their part to help young people value their experience while in secondary school and to find the right fit for post-secondary education and training right after high school and lifelong.

I believe I speak on behalf of my colleagues in Halton but also my colleagues in the province when I say that we believe that providing experiential, community-based opportunities engages students and provides relevance to their learning. Experiential learning opportunities can come in all shapes and sizes, and it has been our experience that communities that work together with schools produce students with a more value-added diploma. This takes resources and support and a government willing to invest in changing for a better future. When I say "support," I'm not just talking about dollars; I'm talking about willingness to work together.

Whether it is the opportunity to job-shadow someone in your dream job, the experience of increasing your awareness of the skilled trades by building a house from the ground up through a program like the Sundial Homes program or through the Ontario youth apprenticeship program, or receiving your personal support worker certification before graduating from high school, innovative school-to-career programming has only just scratched the surface on how we connect young people to their options, their passion and their destination of choice. We also need support to create resources that provide consistent

messages to young people, their parents and educators about the opportunities and pathways that exist for them.

It is our observation that the significant changes currently taking place in education are about more than kids succeeding beyond their academics, but also setting a foundation for increased ownership of their learning and their futures. Teachers alone cannot meet the duality of ensuring that our young people are academically prepared and work-ready. Parents also need help in understanding their role, because it's a tricky one sometimes.

As an industry education council that is well positioned in the community of Halton, as a broker of information, as a strategic relationship builder and as a conveyor of consistent messaging, we enjoy a very positive relationship with the Halton District School Board, the Halton Catholic District School Board, our local college—Sheridan—and some 38 industry partners. Together, we have embarked on several innovative programs and ideas that have been spearheaded by industry and endorsed by educators, parents and students. Students have had life-changing experiences that have connected their classroom learning to the outside world. Things like the Halton STARS program and the HIP program are exceptional internship programs that are working one on one with students who may otherwise choose not to be connected to school.

To cite another Halton example, our school-to-career campaign through the Passport to Prosperity initiative is a marketing campaign that promotes all post-secondary destinations—college, apprenticeship, university and the workplace—as equal and unique to a student's goals. This cultural shift has been endorsed by the Ministry of Education through increased funding for the student success initiatives and the six ways the government of Ontario has developed so that students can customize their high school experience around learning that's relevant to them. Exciting initiatives like expanded co-op credits, the specialist high skills major, the dual credit programs and the proposed lighthouse projects will all need support and resources from community agencies and from employers that are willing to share their industry perspective, and particularly to welcome young people into their workplaces. There are already significant relationships in place throughout the province to help this happen.

This is an exciting time in education. I'm proud to be a part of it. When we are encouraging young people to get the information they need to make informed decisions about their future, we're encouraging them to try things on for size so they can better position themselves for their future. Business and community are committed to demonstrating to our young people that we are willing to help and that there are resources and supports along the way when they're ready. Legislative changes that support this are good news for our community, but they will take time, planning, resources, and communities that see their value in the short term and the long term and that are willing to work together to expand how and where all students learn.

Learning to 18 is a gateway to success in many more ways than the traditional route, and on behalf of HIEC I would like to applaud the efforts made on behalf of our students to work with all those involved to ensure their success, however they might find that. Bill 52 is not just keeping students in school until 18 but engaging students to stay in school to 18 by providing the right combination of opportunities for all students. Thank you.

The Chair: Thank you. Mr. Klees, do you have a question?

Mr. Klees: Ms. Hoey, thank you very much for your presentation. MPP Ted Chudleigh has reported to our caucus on a couple of occasions and is a strong supporter of the work that you do. The transition to the workplace is critically important, and we're hopeful that the government will in fact understand the importance of supporting that transition.

I'd like to know from you, with your experience, if there is one area where you feel that government should be focusing more of its support to ensure that transition? Where would that be?

Ms. Hoey: I would say right off the top it's to give the time and energy to share some of the best practices. We talk a lot about doing new things and innovative things, and that's great, but sometimes we have some of the best examples right in our classrooms. If we could have those teachers connect with some industry folks and give them the time to do that, great things can come of that, because sometimes it's just a matter of time. It's usually a matter of time.

Mr. Klees: Thank you. I'd like to ask one last question of you. We have had presentations from some stakeholders who, in referring to equivalent learning opportunities, have insisted that whoever is doing the training or the teaching must be qualified, certified teachers. Is that your experience? Would you draw the line there or do you feel that there's room for people within that system who aren't qualified teachers?

Ms. Hoey: I think extending learning beyond the classroom is beneficial in so many ways. All students have different learning styles, and to say that it has to come from a specific type of person or a specific certified person is a tricky question. From my perspective, at our industry ed. council, we really want to make sure that industry is stepping to the plate, and sometimes they don't know their role, they don't know how they can get involved in that and they don't know what the implications are for their business. I wouldn't like to see us making that more difficult for them.

The Chair: Thank you very much for having come in this afternoon.

ASSOCIATION DES ENSEIGNANTES
ET DES ENSEIGNANTS
FRANCO-ONTARIENS

Le Président: L'Association des enseignantes et des enseignants franco-ontariens, AEFO; M. Paul Taillefer, s'il vous plaît.

Bon après-midi. Good afternoon. Bienvenue. Welcome. Vous avez 10 minutes pour votre présentation. You have 10 minutes for your presentation. Si vous n'utilisez pas toutes les 10 minutes—if you don't use all 10 minutes—les partis représentés ici vont poser des questions—perhaps the parties here will have some questions to ask. Veuillez dire votre nom pour le Hansard et continuer. Please state your name for Hansard and continue.

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M. Paul Taillefer: Je me nomme Paul Taillefer. Je suis président de l'Association des enseignantes et des enseignants franco-ontariens. Nous avons environ 8 000 membres du personnel enseignant, administratif, de soutien et professionnel qui travaillent dans les conseils scolaires de langue française de la province et aussi auprès d'autres employeurs en Ontario.

J'aimerais vous parler aujourd'hui au sujet du projet de loi 52. En particulier, L'AEFO est d'accord avec les objectifs généraux liés au projet de loi 52, mais nous croyons toutefois que dans sa version actuelle, le projet de loi défavorise les élèves des écoles de langue française, car il n'assure pas l'équité de service. C'est sur ce que je vais vous adresser aujourd'hui. Je vais toucher à certains points, toujours en vous parlant du contexte minoritaire et de nos petites écoles secondaires de langue française.

Quand nous parlons du programme de double crédit, pour nous ça pose des défis particuliers aux écoles de langue française, car il y a très peu d'institutions post-secondaires de langue française ou bilingues dans la province, et encore moins dans les régions où se trouvent nos écoles. C'est vrai que nous pouvons toujours exploiter les nouvelles technologies, telles que l'Internet et ces choses-là, mais nous avons des études qui démontrent que ce ne sont pas tous les élèves qui sont prêts à apprendre utilisant cette nouvelle technologie. Alors, ce qu'on essaierait de faire de cette façon-là ne rejoindrait pas effectivement toute la population qu'on essaierait de rejoindre.

Nous voulons aussi souligner l'impact négatif sur les programmes existant dans nos écoles de langue française. Nous avons des écoles qui sont, comme je vous ai dit, très petites, et la perte d'effectifs ou le mouvement d'effectifs vers un autre système de livraison mettrait vraiment en défi l'offre de cours que nous pouvons donner dans nos écoles de langue française. Ça risquerait d'entraîner la disparition de programmes. Alors, c'est un défi que nous voulons souligner.

Sur la question des cours qui sont offerts dans nos écoles de langue française, nous croyons que nous sommes pénalisés, car les écoles combinent un grand nombre de cours et de filières. Le gouvernement a déjà fait des pas pour traiter de ces situations-là l'an dernier, mais nous croyons que la meilleure façon d'éviter le décrochage scolaire pour les écoles de langue française est d'assurer que les petites écoles secondaires de langue française puissent répondre aux besoins individuels de leurs élèves en offrant un plus grand éventail de cours.

Cette mesure est d'autant plus importante, selon nous, car la grande majorité des élèves de langue française n'ont pas accès dans leur milieu à des programmes d'apprentissage équivalent. Alors, ce serait vraiment l'école secondaire qui pourrait livrer ces programmes-là. Cela pourra avoir un effet positif sur la rétention des élèves.

Vous connaissez sans doute les territoires que nos conseils de langue française couvrent. La majorité de nos écoles sont des écoles rurales, sont des petites écoles qui sont isolées, et la plupart des élèves qui fréquentent ces écoles-là utilisent le transport scolaire. Nous croyons que le gouvernement doit non seulement assurer le transport scolaire vers l'école pour favoriser l'assiduité à l'école, mais aussi vers tout site d'apprentissage équivalent, parce que les situations d'apprentissage équivalent ne sont pas aussi disponibles que l'école pour nos élèves. Alors, nous croyons que s'il n'y a pas de ressources pour permettre aux élèves de participer à ce genre de programme, on va arriver à créer deux classes d'élèves en Ontario. Je crois sincèrement que ce n'est pas la volonté du gouvernement.

Si nous parlons maintenant des crédits externes, nos élèves ne sont pas situés à proximité d'une université ou d'un collège d'arts appliqués ou de technologie de langue française, encore moins d'une école de musique ou d'une école des beaux-arts. Peu de groupes communautaires sont en mesure d'offrir des occasions d'apprentissage équivalent en langue française.

Nous avons présentement des situations qui existent où, à Ottawa, la capitale nationale, qui a un grand bassin de francophones, nos élèves apprennent présentement des cours d'éducation coopérative en anglais. Le projet de loi 52 propose de multiplier l'utilisation d'activités d'apprentissage équivalent. Nous vous avisons qu'il est dans l'intérêt du gouvernement pour la communauté franco-ontarienne d'éviter que ces activités deviennent des sources d'assimilation. Il est important que les élèves dans les écoles de langue française aient accès à des activités d'apprentissage équivalent en français. L'anglais, ils l'apprennent à l'école. Ils n'ont pas besoin de l'apprendre sur les lieux de travail qui sont, comme tels, une extension de l'école où ils doivent vivre en français. Alors, nous croyons que c'est important que le gouvernement prenne ça en ligne de compte.

En vertu de l'article 23 de la Charte des droits et libertés, les francophones ont droit à une éducation équivalente à celle des anglophones. Cela suppose un accès à tous les programmes financés par les deniers publics. Le gouvernement se doit donc de mettre en place tous les mécanismes, nécessaires pour assurer la réussite des élèves francophones.

Ce sont mes commentaires généraux. Je termine en ce moment pour vous donner la chance de poser des questions. Merci.

Le Président: Merci beaucoup. Des questions?

M. Marchese: Merci, monsieur Taillefer. La question que je me pose est, oui, il est important d'offrir—

M. Taillefer: L'apprentissage équivalent?

M. Marchese: Oui, l'apprentissage équivalent, ou bien un apprentissage. C'est important. La question pour

moi est, est-ce qu'on devrait forcer les étudiants à rester à l'école jusqu'à l'âge de 18 ans au lieu de l'âge de 16 ans et offrir les programmes que le gouvernement dit qu'il offre en ce moment, ou bien approfondir ces cours pour leur donner les opportunités qu'ils ont besoin d'avoir? Est-ce qu'on devrait les forcer à rester, ou bien dire que l'âge de 16 ans est bon, mais offrir des programmes dont ils ont besoin? Est-ce que vous avez un point de vue sur ce que je vous ai dit?

M. Taillefer: C'est une question fort intéressante. Je crois que pour nous, on parle de peut-être deux tiers de nos élèves qui ne se dirigent pas à l'université, et je crois que ces élèves-là, par la force des choses, choisissent d'autres routes. Si nous avions la capacité, à l'intérieur des écoles secondaires de langue française ou peut-être par d'autres méthodes qui respectent les droits des francophones, de leur offrir quelque chose qui réponde plus à leurs besoins—parce que c'est vraiment quelque chose qui date de longtemps, ce problème-là, comment on peut adresser, traiter des besoins de ces jeunes-là qui peut-être ont un différent cheminement.

Si on peut leur offrir quelque chose qui réponde à ce cheminement, je crois qu'on peut pallier le décrochage scolaire. Je pense qu'on doit faire tout ce qui est possible, et nous sommes d'avis qu'il y a certains principes qui sous-tendent le projet de loi 52 qui sont très intéressants. Cependant, nous avons de grandes difficultés avec certaines sections en fonction de la question de l'école de langue française en situation minoritaire. J'ai adressé une lettre à M. Kennedy lorsqu'il était ministre il y a peut-être six ou huit mois, et encore, nous avons les mêmes problèmes.

Le Président: Monsieur Taillefer, merci pour votre présentation cet après-midi.

JEREMY TYRRELL

The Chair: Our next presentation will come to us by teleconference. Mr. Jeremy Tyrrell, the former chair of the Assumption school council and PTA member. Mr. Tyrrell, can you hear us?

Mr. Jeremy Tyrrell: Yes, I can. Thanks for having me. It's a beautiful day in Windsor. I'm glad to be in Hamilton.

The Chair: OK. We're just doing a sound check to make sure that the members here can hear you.

Mr. Tyrrell: Sure.

The Chair: Okay, now we can hear you loud and clear.

Mr. Tyrrell, you're speaking to the standing committee on the Legislative Assembly regarding Bill 52. You have 10 minutes to make your deputation. If you don't use your full 10 minutes, we'll divide the time among the parties present for questions. Please state your name clearly for Hansard and then continue.

Mr. Tyrrell: Thank you. My name is Jeremy Tyrrell. I'm the former chair of the Assumption school council parent committee, and a little error there. I state that I've been part of PTA and parent council for 20 years. It's

actually only 19, but I still have a bit of experience to share.

Our youngest starts high school in about a week. We've got three children, all of whom have done well in our school system. The oldest graduated from university last spring. Our daughter is in her fourth year of university, and she hopes to start teachers' college next year. So, Minister Papatello, I've been asked not to say anything that could cost her that opportunity and I'll do my best.

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All three of our kids have been very active in sports, in school government, in experiential learning. As a matter of fact, our youngest attended the Ontario education leadership course in Orillia last summer, and was also a legislative page in June of last year. Minister Papatello, he's in your calendar. He's actually Mr. September, and I want to thank you—

Interruption.

Mr. Tyrrell: I'm not sure how far I got, but I would like to express my support of the bill as stated in the preamble—

The Chair: Just for your information, Mr. Tyrrell, I'm not sure whether you're aware, but the minister is not present in the room.

Mr. Tyrrell: Oh. Will you pass along my compliments, please?

I would like to express my support of the bill as stated in the preamble, in that I think it addresses the issue of experiential learning. It shows a respect for school happenings, a little bit more than just inside the school building. For the most part, I think the bill works towards a good cause.

The part of the bill that I'm particularly pleased with is making it a penalty for employers to employ anybody who should be in school, basically. As a restaurateur for many years, I always made it my own personal point to make sure that if the kids were supposed to be in school, they weren't working for me at that time.

Can you hear me?

The Chair: Yes, we can hear you. Please continue.

Mr. Tyrrell: I'd like to get right to the point of the bill which I don't agree with, and that is the driver's licence. I'm sure you must be hearing from others about that. When a child drops out of school, they're automatically marginalized from their own society. In my years on a parent council, I think that was the one thing we always tried to focus on—not just on the kids who were doing very well and not just on the kids who were involved, but on the students who are really not speaking up. You can't hear them, their parents aren't there to speak for them and they risk being marginalized. When a child drops out of school, they're automatically marginalized from their own society. By denying them the right to get a driver's licence, or by suspending their driver's licence pending their return to school, we further marginalize them, I think.

I'm calling this, for my use, the pudding clause. If you remember the Pink Floyd song The Wall, "How can you

have any pudding if you don't eat yer meat?" We look at school as the meat and the driver's licence as the pudding.

Now, I'd like to look at it a little differently than that. I'm not one of these people who doesn't believe in consequences—I do—but have you considered, has it come up, that perhaps the driver's licence could be part of the school experience? What I'm suggesting is that what if there were a credit for getting a driver's licence? What if there were classes available in the school that would study driving, make safer drivers out of these students and they could in turn get a credit out of that? Obviously that's not going to be of much interest to those who are university or college-bound, but for those kids who aren't planning on that and are looking to get a general diploma, this could count as a credit towards it and would, in the same way as your bill does, include it as part of the overall experience of learning happening outside of the schoolroom and that there's more to it than just the three Rs.

That's basically what I have to say. I'm sure you've heard from others about the driver's licence issue, and I'd be happy to entertain questions if you have any.

The Chair: Thank you very much. We should have an opportunity for each party to ask you at least one question, beginning with Ms. Wynne from the Liberals.

Ms. Wynne: Mr. Tyrrell, can you hear me?

Mr. Tyrrell: Yes, I can. Thank you.

Ms. Wynne: I just want to be clear about what you're suggesting. You're suggesting that you make a driver's licence course a credit, so that by definition, students would be in school if they're 16, 17. You're not opposed to the idea of keeping kids in school until they're 18. You're suggesting that the driver's licence become part of the Ontario curriculum.

Mr. Tyrrell: I think that would be a workable solution. I don't mean it to be sort of a trick to keep kids in school, but by definition they'd have to be 16 to take the course. It would be a reward for staying in school and something they could work towards.

I use my own nephew as an example. He dropped out of school just a couple of credits short and then still went out and got his driver's licence. I think he had something to offer; he just couldn't find it there. It might have worked for him if it were a credit.

Ms. Wynne: So you're supportive of the other parts of this initiative, which are to offer those alternative programs. You think that's fine, and you'd like to see this as part of the Ontario curriculum.

Mr. Tyrrell: I think it's a wonderful idea. It's taking great strides forward.

Ms. Wynne: Thank you.

The Chair: Mr. Miller from the Progressive Conservative caucus.

Mr. Miller: Thank you very much for your presentation. Your idea about drivers' licences is interesting. Certainly in my area of Parry Sound-Muskoka, a driver's licence is pretty much a necessity in a rural northern area. That's an interesting idea.

You're the first person I've heard come before the committee who supports penalties for employers. I'm just wondering why you support that, especially when you don't agree with the punitive measures in terms of the driver's licence. You say that would further marginalize dropouts. Why wouldn't penalizing someone who drops out but gets a job, probably out of necessity—I'd like to hear why you support penalizing dropouts by penalizing the employers who might provide them with some income.

Mr. Tyrrell: To clear it up, there should probably be a way if the student could prove to the necessary authorities that he had to do it, perhaps for financial or family reasons. There are a lot of reasons kids drop out beyond the fact that they're just bored, and we have to take that into account. But there are also kids who see that the opportunity to work and make some money is more enticing than attending school. Those are the ones who I think the bill targets, and that's who I meant by saying I support that sort of penalty. So there could be a system in place.

Mr. Miller: If I understand you correctly, there should be an exemption for those other cases, the hardship cases or cases where—

Mr. Tyrrell: Absolutely.

The Chair: Thank you. Mr. Marchese from the NDP caucus.

Mr. Marchese: Jeremy, I just have a couple of comments that you might want to respond to. I think the whole focus of this bill is wrong. I would have expected the Conservative government to have done it but not the Liberals, so it puzzles me.

Fining employers I believe is a mistaken thing; to say we've got to put the onus on the employer who might be hiring somebody who left of his or her own free will to find employment.

Fining a parent \$1,000 instead of the old \$200 is another wrong focus because it says the parent is at fault rather than something wrong with the student.

And third, the whole idea of creating an equivalent learning option that will require a whole bureaucracy to supervise the people who are doing the course, who is monitoring them, who they're accountable to, who's actually doing it, is a costly affair.

I think a whole lot of students who leave have a lot of social, psychological and learning problems.

The Chair: Okay, Mr. Tyrrell, we need you to respond to that.

Mr. Marchese: This bill won't reach them. That's why forcing kids to stay in school is wrong. What do you think?

The Chair: Thank you, Mr. Marchese. Mr. Tyrrell, you have a brief moment to respond.

Mr. Tyrrell: Sure. If it were phrased in the form of a question, I would say that the bill serves to encompass the entire community as part of it. I believe there should be consequences. You just can't say, "You've got to stay in school until 18," and then somebody drops out and there are no consequences.

Secondly, to clarify the fine to the parents, it's only until they're 16, not between 16 and 18.

Getting employers involved—I think we need to have the entire community show a vested interest in having those kids get their high school diplomas and stay until they're 18.

The Chair: Thank you very much, Mr. Tyrrell. That concludes the time we have, and thank you very much for calling in to us today.

Mr. Tyrrell: My pleasure.

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HOME SCHOOL LEGAL DEFENCE ASSOCIATION OF CANADA

The Chair: Our next deputant will be the Home School Legal Defence Association, Mr. Paul Faris and Mary Knor. Good afternoon. Welcome. You have 10 minutes for your deputation. If you don't use the entire time, I'll divide it among the parties for questions. Please begin by stating your name for Hansard and then continue.

Mr. Paul Faris: Thank you for having us. My name is Paul Faris. Mary Knor is with me today. She's my colleague at the Home School Legal Defence Association. We are a national organization that defends, protects and advocates for home-schooling. We're made up of home-schooling parents and home-schooling children. In fact, both Mary and I were home-schooled ourselves and went on not to graduate from high school in the sense of getting an OSSD, but to complete high school studies. I went to the University of Western Ontario, got my law degree and am now called in two provinces, Ontario and Alberta. We found success following home-schooling, but neither would have fit within this bill because we would have had no way to prove that we had completed high school. Both of us completed before we reached 18—in fact, I was in university at 18—which is in fact quite common for home-schoolers.

Obviously, a change needs to be made for home-schoolers, and I think that has been acknowledged by all three political parties here. There has been contact with home-schoolers. In fact, it's a very close-knit community, so we've all talked. I can say that I support the presentations of the two that presented in Stouffville and the three previous ones today. So I want to thank you for being at this presentation and the previous ones and hearing this perspective.

The second element to this is that obviously there needs to be an amendment. How do we do that? The key is that there is nothing in this bill that directly addresses home-schoolers, so we need to put a specific procedure for home-schoolers into it. The way that needs to be done is parents having direct contact with the Ministry of Transportation and not working through the Ministry of Education. That's in fact what we've seen, the form that has been presented to you from several of the presenters, and we're in support of that as well. That would accomplish this.

I'm going to leave time for questions, so I'd be happy to take any questions on this, but we see terrible, disastrous results and a completely unfair burden on teachers and school administrators when they try to quantify or provide an OSSD for home-schooled students. You can't do it. Just as an example, there are dozens and dozens of different home-school curriculums out there, and most families don't use just one curriculum. They use an amalgam of those curriculums because the real strength of home-schooling is the ability to privately tutor each child to their own learning and their own learning needs. Just to give you a quick example, special-needs students who are home-schooled score on average higher than the average non-special-needs student who goes to school. This is an extreme example, but it shows how that specialization can really benefit a group. That is what would be lost if this bill went through as it is now, because there is no ability for the public school to recognize those dozens and dozens of different home-schooling options. I could go on at length about the results of home education. I think you've heard most of it already, so I won't go into the details, but we can get you any study you need on that if there is any further interest.

I would simply point out an interesting fact: The average home-educated student costs their parents about \$700 a year in terms of curriculum and that sort of thing; the average publicly educated student costs in excess of \$8,000. That's non-special needs, in non-special circumstances. It's estimated that there are about 20,000 to 30,000 home-educated students in Ontario. That's \$160 million, if we take the lower number, that's being saved the government of Ontario every year for home education. The academic results are very good, they're more likely to vote—all the civic statistics that you've already heard. So this is clearly something that should be fostered and encouraged.

I want to thank Ms. Wynne for the co-operation that we have seen at the previous meeting. I would encourage that to continue as this goes forward. Like I say, the home-schooling community is very small and we all talk; obviously, we all talked before coming and giving these presentations. I think we each had something unique to contribute, but the general thrust is that there needs to be an amendment to Bill 52 that accommodates home-schooling. Obviously, the guarantor form is one of those. I would encourage you to stay in contact—Anne Culham is an excellent home-schooling representative, if you want to use her—so that we can reassure the home-schooling community that the government is not going to refuse to give them licences or something terrible like that and so that when the bill comes out, we're not backpedalling and trying to amend that or change somehow in the regulations something that could have been fixed through some simple consultation before.

I'm going to cut my presentation off there, and I welcome any questions on this subject.

The Chair: Thank you very much. We should have an opportunity for each party to ask one economical question, beginning with Mr. Klees.

Mr. Klees: Thank you, Mr. Faris, for your presentation. I heard you say that you've had commitments from all three parties to make an amendment to this legislation to address your concern. Is that right?

Mr. Faris: I believe I heard those statements made while I was listening earlier.

Mr. Klees: Okay, well, certainly the PC Party is committed to that. What I'm interested in is whether you've had a commitment from Ms. Wynne and the government to do that.

Mr. Faris: I was hoping I could take the statements made earlier at face value, and I trust that will be the case.

Mr. Klees: So in other words, you're saying that you do have that commitment from Ms. Wynne?

Mr. Faris: I don't want to put words in her mouth, but I understood her words to be a commitment of that nature.

Mr. Klees: Thank you very much.

The Chair: Mr. Marchese.

Mr. Marchese: Paul, Mary, I want to thank all of the presenters from the home-school group for their presentation, and thank them for the commitment they make towards the teaching of their children. Because it's a commitment that is profound. I couldn't do it, and I'm sure most parents can't do it, so what you do for your kids is something to be congratulated. I wanted to say that first.

Secondly, I want to say that we would support an amendment that's brought forth by the government or the Conservatives. We oppose the bill entirely. We think it's wrong. So the third point I want to make is that beyond the amendment that I hope will come from the government or the Tories, with respect to the bill, I am one who believes that if we help kids as much as we can from whenever we get them in school to age 16, and we've done our very best, then those kids who want to stay on will continue. That's what we want. If we haven't done a good job, forcing them to stay from age 16 to 18 is profoundly mistaken, misguided.

The Chair: Thank you. I have a brief opportunity for you to respond and we'll move to Ms. Wynne.

Mr. Marchese: What do you think, Paul?

Mr. Faris: I would just say, as I think would be quite clear, home educators are profoundly committed to education and do everything they can to promote that by taking that personal responsibility on themselves. We would support anything that promotes education. In this regard, we're restricting our comments to the direct impact it would have on home-schoolers.

The Chair: Ms. Wynne?

Ms. Wynne: Paul, thank you very much for being here. I just want to be clear: What I said earlier was that the form that has been brought forward by a number of the home-schooling groups is in our possession. The ministry is looking at it. What we're committed to is looking for a solution that works for all students in the province who are in a solid learning environment up to 18. That's what we're looking for. We want it to work for everyone. I think that is what I made clear to Anne and to

the other folks who came into my office. I'm very supportive of finding that kind of solution, so I will continue to advocate for that. But I can't speak on behalf of the government in terms of what that outcome will look like, what that solution will look like, but that's what we're looking for. Okay?

Mr. Faris: May I respond with a question?

Ms. Wynne: Sure.

The Chair: You have a few seconds to sum up and then your time is done.

Mr. Faris: I suppose a quick comment and a question. First, I would strongly encourage you to focus this on home-schooling, because in my read from a legal perspective, home-schoolers were not even really thought of in drafting this bill. The language could be made to be disastrous for them, but I don't think they were contemplated. So there needs to be a specific exemption for that, and I would ask you to at least commit to trying to find a specific circumstance or a specific exemption, specific amendment that would work to foster home education.

1350

Ms. Wynne: One of the groups raised the issue of old-order Mennonites, and I'll just repeat that we are looking for a solution that's going to work for everybody.

The Chair: I'd like to thank you very much for your deputation.

BRANT HALDIMAND NORFOLK CATHOLIC DISTRICT SCHOOL BOARD

The Chair: Our next deputant is Theresa Harris of the Brant Haldimand Norfolk Catholic District School Board. Good afternoon and welcome. You'll have 10 minutes for your deputation this afternoon. If you leave any portion of the time remaining, I'll divide it among the parties for questions. Please begin by stating your name for Hansard and then continue.

Ms. Theresa Harris: Good afternoon. My name is Theresa Harris. I'm the director of education with the Brant Haldimand Norfolk Catholic District School Board, but I address you this afternoon as the leader for the school-college-work initiative team, which consists of not just our board but the Grand Erie District School Board as well as Mohawk College and Fanshawe College, Brantford campus and Simcoe campus, together with Laurier University Brantford, Nipissing University Brantford and the St. Leonard's society. That group of seven has been engaged for the last two years in the school-college-work initiative program, which I bring to your attention. I'm gathering from nods that some of you are well aware of the project. This is a project that indeed seeks to find positive ways to continue to keep young people engaged in school and in transition to the next step, be it college, university or work.

I want to tell you this afternoon just a little bit about a very successful project that our group has been involved in last year and will move forward into next year. This school-college-work initiative has been operative in the

province for nine years so far. Our group has been involved for two years so far. Last year we initiated a project called SWAC, school within a college.

The school within a college consisted of providing opportunities for particularly at-risk students. We were looking at students 18 and older who were certainly at risk of dropping out because they were behind in the number of credits normally assumed by that period in their lives. We sought an opportunity to allow them to attend school on-site at a college. So we started in the fall with Mohawk College, Brantford, and we sent I believe a total of 42 students initially, 21 from each board. They attended class all day long, devoid of uniform for the Catholic students, which some of them saw as a definite perk. But the biggest perk for them was to be treated as adults in an adult environment, at a college.

While there, they studied under the guidance of secondary teachers, thereby able to get secondary credits mostly in the areas of English and math. As well, some of them took advantage of the opportunity to get credits for courses they had already tackled at another time, thereby cutting shorter the time required to study. The name of that is escaping me right now. It was an opportunity for kids to do make-up credits, if you will. In the afternoon they were taught in a team teaching environment by a secondary teacher and a tech teacher from Mohawk College.

At the end of the day, these kids had an opportunity to walk away with four, possibly five or more, secondary credits in one semester, plus they were able to garner two college preparatory credits. That met with such success that those students told their friends, who told their friends, so that in the second semester we had no difficulty launching through any kind of advertising campaign the program to go in the second semester. We branched out to include Fanshawe at that time and moved from the technical aspects, I'm going to say, that attracted the males primarily at Mohawk, to a human services program at Fanshawe, Simcoe, that attracted primarily females. The second semester was extremely successful as well and has our team going forward with full programs at both colleges for September. We have made some presentations to faculties of education about this type of program and we'll be making a presentation to the literacy-numeracy symposium in September. The model proves that it does work for kids.

If you were to interview our students—we have allowed them on many occasions to make presentations, and they tell us in spades that had it not been for this opportunity, they would not be in school any longer. One young fellow told us that the real beauty of the program was that he was now allowed to go back home to live because the deal was, "Either you're working or you're in school or you're not here." The students really appreciate the program. It takes them from that no-hope place of not being able to catch up to a place where "I can do this, people have confidence in me, and away I go."

At both colleges, the kids have been well supported by the college staff. At Mohawk College, at the end of the

first semester the dean came to help out in the graduation and said to the students, "You have all proven yourselves so well that at the conclusion of your graduation today, I am offering you all admission into Mohawk College." So, bonuses all the way around; parents are delighted with it. It is something that I think is worthy of emulation throughout the province. With that in mind, I present to you another option that is a very positive perspective in keeping kids in school.

The Chair: Thank you very much. We should have an opportunity for each caucus to ask you one brief question, beginning with Mr. Marchese.

Mr. Marchese: Ms. Harris, as an educator you may have heard some of my comments already.

I believe it's just wrong to fine parents \$1,000 if they don't comply, or employers if they knowingly are hiring somebody who should be in school. From ages 16 to 18, I'm worried about this equivalent learning option in terms of what it means and who's going to be teaching it, the curriculum and so on. I believe we should be offering those options that you suggest, but we don't have to have a law that says they have to stay, no matter what, from ages 16 to 18. Why can't we do what you suggest and make sure the system promotes these options without saying to students, "You shall stay no matter what, whether you've got problems or not"?

Ms. Harris: I'd have to support that. I have an opportunity with our student senate for our school board that meets with representatives from each of the high schools, and we certainly put this question to that group. This is a group of fairly high achievers, and to a person they all stated, as you're stating, that the positive approach is much more effective.

There are many reasons that cause people to make life decisions and they shouldn't be penalized for making them.

The Chair: Thank you. Ms. Wynne.

Ms. Wynne: I want to address the punitive piece just for a second, because we've spent a fair bit of time on it in these hearings, and you're bringing forward what I think is the more important part of this initiative.

The numbers we have from 2003-04 are that of 281 students charged with truancy, there were actually only six who were fined. So we're talking about a very tiny number of students who make it through the court and to the point where there actually is a penalty applied. To me, that is a bit of a red herring in terms of what we're trying to do with this legislation.

What you're bringing forward is exactly the point. If we put these programs in place, and there are programs like yours in place around the province—at the Hamilton board there's a Pathways to Learning, there are programs that are starting and have been in place and are being encouraged now.

Can you just comment on that interplay between the negative that we've heard about in terms of the penalties, which are really the enforcement provisions, and the positive initiatives?

Ms. Harris: Basically I'd be echoing your comments there. The punitive measures don't seem to have any effect, and part of the reason you're seeing not a lot of the cases making it through to the courts is that it could be tremendous energy consumption going on there to put together something that's not going to have any impact at the end of the day.

As an old secondary school principal, I would tell you that you have to find ways to find programs and initiatives that keep the kids there. There's nothing that can chain them there; it's not going to have an effect.

1400

Ms. Wynne: So you have the enforcement piece in place, but what's really important is the other positive programs.

The Chair: Mr. Miller.

Mr. Miller: Thank you very much for your presentation and giving us information about your SWAC program. I'm interested in that. What age were the kids who participated in that program?

Ms. Harris: We focused, certainly our first time out, on what we call the at-risk students: students between 18 and 20; students who, if you looked at their credit accumulation, would recognize that they're looking at a pretty challenging couple of years before they would accumulate the credits required. Those are the kids who will drop out. They'll drop out before they graduate because they just don't see the end in sight. So we picked kids 18 and older who were deemed to be at risk because of credit accumulations.

The Chair: Thank you very much. That concludes the time for your deputation. I want to thank you for coming in.

PATRICIA JONES

The Chair: Our next deputant, and the last word this afternoon, is Patricia Jones, who is joining us by teleconference. Patricia, are you on the line?

Ms. Patricia Jones: Yes, I am.

The Chair: Patricia, I'm Bob Delaney. I'm the Chair of the standing committee on the Legislative Assembly. You're speaking to us this afternoon in Hamilton. Representatives of all three parties are sitting around the table. You'll have 10 minutes to make your deputation to us. If you don't use the entire 10 minutes, the parties may have an opportunity to ask you a question. Please begin by stating your name for Hansard and then continue.

Ms. Jones: Thank you for allowing me to be on today. My name is Patricia Anne Jones. I have been an educator for several years. When I read this tying of licensing to dropouts I was very upset and now I would like to explain to you why.

First, I don't know how you got this, but if you want to keep students in school longer—and I'm sure you have a very good reason for that—and they are not staying in school, I hope you go to the schools and not necessarily talk to the teachers and not necessarily talk to the parents or the administrators. You have to go and get a rapport

with the students who have left and who are still in school begging to leave and find out why. If you get a rapport, they will give the answers that you don't want and, if you do nothing but listen, eventually they will talk to you. I believe that and I believe that to be critical. Often, they don't get to talk; they just get to listen, and they don't listen any more because it just doesn't help them.

The second thing is more of an aside. I know of a young man who was 15 years old, who was sentenced to a facility because he was a juvenile. The sad part about it is—and I knew this boy to be learning disabled but one of the brightest people I have ever met in my life—he started to learn how to read when he was in jail. You take that as fact and then I'd like you to think of why he had been in school for 10 years and still didn't know how to read. But when he's sent to jail and he has a different type of program, a one-on-one, he started to learn how to read. That's my aside. I think you should look into that.

Why I am not happy with this at all is because I think there are some assumptions being made and one is the American experience. It has been stated that Americans' attendance, when they did this sort of thing—oh, they had wonderful results. Do you know what? I have never seen those stats, and the second thing is, I don't believe them. The third thing is, I have followed American education and, as far as I'm concerned, many parts of their system are in the toilet. Following American examples down the drain is not a solution to a problem. It's just grasping and it's assuming that they actually have the stats to back up their statements. I would like to see that link established. I don't believe it's true. I think it's another assumption and I think it's a political statement.

The second one that really bothers me is, who knows what's best? It's not that the government isn't looking out for everyone's best interests, but I don't think the government is able to tap into the best interests of juveniles. One of the reasons is, most of us, myself included, are middle class people, and most politicians are middle and upper class. You have never walked in the footsteps of abject poverty. You have no idea what some of these kids go through to get to school. You have no idea the bullying they take just because of the clothes they wear. You have no idea that many of these students can't even read and they're not going to learn how to read in our system. They've been in the system for 10 years and they still can't learn to read, but they can in jail. There's something wrong here. But to take their last opportunity for self-esteem—if you can picture yourself going to work every single day, and going to school previous to that, and you are a failure hour after hour, day after day, maybe you can get some sort of empathy—I know you can't get a feeling, but empathy—for these children who are behind the eight ball and the educational system is failing them year after year.

Go to the students. Ask them what they need. But you have to have a rapport. People coming in off the street don't have that rapport. A lot of teachers don't have that

rapport. But these kids want to learn. They don't want to sit in class and be a failure all the time. But do you know what? Some of them desperately need that driver's licence because they can get a job. They're not going to get anything else out of school. They've already been there for 10 years and have gotten nothing. But if they have a driver's licence, maybe they can get a job, maybe they can help their families. If they're on a farm, they definitely can help the family. I know of many farm students. If the children were denied a licence and these children stopped school and they were able to get a job on the farm, they couldn't have that job if they didn't have that licence. So they just go further and further down into poverty.

Excuse me, but this linkage is so unfair and it's so illogical. If you want to start fixing—and you have. You have started to fix up the Mike Harris debacle in education. Finish that job first. Don't start other side issues. Finish the first job, and go to the kids. I've already mentioned you are stripping them of their chance for employment, and I think that is absolutely sinful. I hope you have some rural people on your panel. I hope you go to poor, rural families. Go to the bloody farm and talk to these people and you'll see—

The Chair: Ms. Jones, it's the Chair. Just to remind you, you have about two minutes.

Ms. Jones: Okay. Thank you very much. Good for you.

We all know of many people who have had to drop out of school because they couldn't take the abuse, they couldn't take the failure, and they walked out with their head between their knees. But getting the job and a driver's licence put them back on. Many of these people are paying taxes now. That's what happened to them

when they were 16 and they were allowed to quit. They are now responsible. I know of three families. They're all boys. They have a wife, they have children, they pay taxes and they've got a house. They couldn't have had that if they stayed two more years in school because school wasn't going to give them what they needed. However, competent instruction in driver's ed will help some; it won't help a whole lot.

Another reason is, I don't think we are understanding how important it is for immigrants for their children to get out and help the family. They need English and they need that driver's licence to help. You don't know what problems the families have. I don't, but I know that there are families with fathers who have been unemployed due to mental illness or physical disabilities because of a farm accident. I don't know what they would do without their 16-year-old being able to drive that pickup and go and get what they need for the farm or take that grain to the elevators. They would be destitute. They can hardly hang on as it is.

Basically, my point is, you're tying it to the wrong thing. Get back into education. Teach these kids how to read, and do you know what? They will stay.

The Chair: Ms. Jones, I have to stop you there. That concludes the time you have available. I want to thank you very much for your comments today and just let you know that you had the last word in today's hearings. Thank you very much.

Ms. Jones: That's the first time in my life I've ever had the last word. Thank you.

The Chair: Okay. Thank you.

Ladies and gentlemen, that concludes today's proceedings. These hearings are adjourned.

The committee adjourned at 1411.

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Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 26 October 2006

Journal des débats (Hansard)

Jeudi 26 octobre 2006

Standing committee on the Legislative Assembly

Education Statute Law
Amendment Act
(Learning to Age 18), 2006

Comité permanent de l'Assemblée législative

Loi de 2006 modifiant des lois
en ce qui concerne l'éducation
(apprentissage jusqu'à l'âge
de 18 ans)

Chair: Bob Delaney
Clerk: Tonia Grannum

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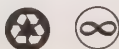
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 26 October 2006

Jeudi 26 octobre 2006

The committee met at 0902 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Bob Delaney): Good morning, everyone. This is the standing committee on the Legislative Assembly. We are here to consider Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act.

Our first order of business this morning is the reading in of the report of the subcommittee. Mr. Klees, would you like to read the subcommittee report?

Mr. Frank Klees (Oak Ridges): Chair, if you are asking me to do that, I'm compelled, then, to do that:

(1) That the committee meet for public hearings in Toronto on Thursday, October 26, 2006, during its regularly scheduled meeting time, and that if necessary the committee request permission from the House leaders to sit in the morning to accommodate additional witnesses.

(2) That the clerk of the committee post information regarding public hearings on Bill 52 on the Ontario parliamentary channel and the committee's website.

(3) That the clerk of the committee place an ad in the Toronto dailies and in all the GTA weeklies.

(4) That interested parties who wish to be considered to make an oral presentation on Bill 52 contact the clerk of the committee by 5 p.m. on Monday, October 23, 2006.

(5) That if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear, by 5:30 p.m. Monday, October 23, 2006, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled, by 12 p.m. on Tuesday, October 24, 2006.

(6) That the deadline for written submissions on Bill 52 be 5 p.m. on Thursday, October 26, 2006.

(7) That all witnesses be offered a maximum of 10 minutes for their presentation.

(8) That the research officer provide the committee with a summary of public hearings by 12 p.m. on Monday, October 30, 2006.

(9) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 5 p.m. on Tuesday, October 31, 2006.

(10) That the committee meet for clause-by-clause consideration of Bill 52 on Thursday, November 2, 2006.

(11) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: May I have a motion to adopt the report of the subcommittee?

Interjection.

The Chair: Mr. Racco. All in favour? Opposed? Carried.

EDUCATION STATUTE LAW
AMENDMENT ACT

(LEARNING TO AGE 18), 2006

LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION
(APPRENTISSAGE JUSQU'À L'ÂGE
DE 18 ANS)

Consideration of Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act / Projet de loi 52, Loi modifiant la Loi sur l'éducation concernant l'apprentissage des élèves jusqu'à l'âge de 18 ans et l'apprentissage équivalent et apportant des modifications complémentaires au Code de la route.

OLGA KAMMEL

The Chair: Our first presentation is from Mr. Dan Sheeler for Olga Kammel. Is Mr. Sheeler here? Thank you very much. Please sit down and make yourself comfortable. You'll have 10 minutes for your deputation this morning. Begin by identifying yourself for Hansard and then proceed.

Mr. Dan Sheeler: Good morning. My name is Dan Sheeler. I'm a teacher at Ancaster High School in the Hamilton-Wentworth District School Board. I am presenting on behalf of Olga Kammel, a colleague and fellow teacher at Ancaster High School in the Hamilton-Wentworth District School Board:

"I would like to thank the legislative standing committee for giving me the opportunity to address you this

morning. As fate would have it, at dinner last evening I asked a waiting colleague to join our table. As she left our meal, she presented us with a handwritten haiku poem:

"By chance we meet here;

"You invite me to join you

"Ah, conversation!"

"I found the poem not only topical to today's invited public discussion concerning the proposed Bill 52, the Education Statute Law Amendment Act (Learning to Age 18), 2006, but also a symbolic reminder of public discourse's importance prior to enacting any far-reaching amendments, such as those contained within Bill 52. Specifically, I believe Bill 52's equivalent and dual-credit programs erode both curricular legitimacy and public trust. Unfortunately, once lost, both are difficult to regain.

"As a teacher in the Ontario public education system, I firmly believe in the right for every student to have access to an equitable, valued, rigorous education based on an accepted curriculum delivered by certified, experienced and passionate teachers. After all, there is a reason that the Ministry of Education mandates that 'to be considered for employment as an elementary or secondary school teacher in a publicly funded Ontario school,' applicants 'must have a permanent or interim certificate of qualification.' That reason, then, is trust—a trust in the authenticity and equity of the curriculum.

"Unfortunately, Bill 52's introduction of dual-credit courses and equivalent learning programs eliminates this deeply rooted trust. No longer can students and parents rest assured that the education being received is a sanctioned, supported and tested curriculum delivered by self-, system- and professionally regulated and certified teachers. Indeed, public trust in teacher capacity is so important that we have the Ontario College of Teachers serve as a regulatory, even disciplinary, body. Along with the standards of practice and ethical standards for the teaching profession, the Ontario College of Teachers exists to assure the public that their daughter or son is receiving an education delivered by professionals. These professionals, then, ensure their children are prepared lifelong learners.

"Should equivalent credit programs and dual-credit courses occur, who will reassure the public that the instruction their children are receiving is applicable and relevant? How will these external providers be monitored and regulated? What resources will be available should they prove unsuitable? Lastly, what are the health and safety supports for students who encounter problems while taking part in these outsourcing programs?

"Logistically, in a time when we are using standardized assessment tools such as the OSSLT to identify baselines for students' needs, is it not hypocritical that we would adopt a system which eliminates curricular checks and balances? How will the government answer the public's inquiry as to the credit legitimacy and course consistency when projected dual-credit time allotments

range from 45 to 65 hours, a 50% reduction from the ministry's mandated 110-hour requirement? For although enduring learnings can be taught in an abbreviated fashion, such programs presuppose that students do not need time for review, repetition or revision. As an experienced classroom teacher, I assure the committee that this is not the case. Students succeed when they understand, and students understand when they have the time and opportunities to succeed.

"Of course, this is not to suggest that all alternate education providers are incapable of transmitting valuable knowledge and skills, but rather that the varying nature of workplace employers and non-reviewed post-secondary providers cannot commit the time teachers do in developing, honing and upgrading their education-specific knowledge and skills. Indeed, that is why our consistently subscribed co-operative education programs work well to integrate academic skills and work experiences, the only difference being that co-op programs are delivered in conjunction with certified teachers. These teachers evaluate students to see that they understand and demonstrate the connection between their secondary school and workplace experiences, all the while filtering and observing workplace employers to ensure that students are safe.

"As a case in point, since becoming a certified teacher, I have worked diligently to improve my educational training so that I can better assist the multi-faceted students I educate every day. Specifically, I received my master's in education; junior, intermediate and senior qualifications; ESL part 1 and 2 and specialist; dramatic arts honour specialist; as well as guidance parts 1 and 2. I entered teaching believing that teaching is a lifestyle. I still believe that to this day. Unfortunately, I also believe that this mentality, through no fault of the external providers, is not necessarily shared. Simply, teachers model how to become lifelong learners. Thus I object to any program that removes and isolates students from this educational community.

0910

"Regarding the public's demand for curricular legitimacy, in 2003, the Ministry of Education established a schedule for ongoing curriculum review. As noted on their website, 'Each year, a number of subject areas enter the review process to ensure that they are kept current, relevant and age-appropriate.' I agree with the ministry's belief that because so much is at stake, reviews are conducted with great care and that comprehensive information gathering occurs from numerous stakeholders.

"But an as-yet-unanswered question remains: Will these equivalent and dual-credit courses face the same rigorous review? Can they? If so, who will oversee this responsibility and how will it be reported to the public?

"Indeed, Bill 52's apparent need is to increase our province's graduation rate to 85%. However, I would suggest that an OSSD that consists of watered-down, unregulated, varied and questionable credits does little to prepare students for the challenges ahead. I urge this committee to avoid the pitfalls of both seductive statistics

and suggestive language. Opposing Bill 52 is not an attack on student success; rather, such opposition is a defence against programs that threaten to limit outgoing students' lifelong success.

"As a certified teacher, I assure you that I and all of my professional colleagues are student success teachers, and I would add that our interest and dedication toward achieving student success has never wavered. A vote against Bill 52 is a vote for a legitimate, equitable, accountable public education.

"In closing, Bill 52 breaks the public's trust. It does so by unjustifiably altering the currently accepted understanding that an OSSD is granted based on the assessment, evaluation and reporting of certified, passionate teachers delivering an established, reviewed curriculum.

"I would like to thank the standing committee on the Legislative Assembly for hearing my concerns today. I hope that today's conversation invites alternative ideas on how best to improve our public education."

The Chair: Thank you for coming in. We should have time for one very brief question and associated answer.

Mr. Klees: Mr. Sheeler, thank you for your presentation. You've raised very specific questions relating to the equivalent and dual-credit courses. Specifically, will these equivalent and dual-credit courses face the same rigorous review—can they?—and if so, who will oversee the responsibility and how will it be reported to the public? If you were to get specific answers to that, would you support this bill?

Mr. Sheeler: No. I still wouldn't support the bill in its current phase, and the reason for that is, despite ensuring more equitable public trust in terms of reviewing said courses, I still deny that these courses have value because of the constricted timelines, the safety concerns connected to out-sourced students not being attached to certified teachers and also the questionable curricular validity of the courses from the very onset.

The Chair: Thank you for taking the time to come in to make your presentation this morning.

The clerk advises that the deputation by Eugene Spanier has been cancelled.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION, DISTRICT 25,
OTTAWA-CARLETON TEACHERS'
BARGAINING UNIT

The Chair: Our next deputant is the Ontario Secondary School Teachers' Federation, district 25, Ottawa-Carleton. Is Kerry Houlahan in the room?

Good morning, and welcome. Make yourself comfortable. You'll have 10 minutes to make your deputation this morning. If you leave any time, it will be divided among the parties for questions. Please begin by identifying yourself for Hansard and then proceed.

Ms. Kerry Houlahan: Good morning and thank you for the opportunity to present this morning. My name is Kerry Houlahan. I am president of the teachers' bargaining unit for OSSTF in Ottawa-Carleton. I rep-

resent approximately 1,800 teachers and will be using the OSSTF submission as the basis for my presentation this morning.

Let me begin by saying this bill is not needed. Some of our students benefit from equivalent learning opportunities and we already have appropriate provisions in place to offer those alternative learning opportunities properly. We must respect the rigour of the OSSD—the Ontario secondary school diploma—credit system while doing so and ensure the direct involvement of certified secondary teachers.

I would like to share with you this morning some of the successful equivalent learning opportunities currently offered in Ottawa-Carleton that meet the intentions expressed in Bill 52.

Trading Places, for instance, is a joint venture with the ministry of justice. It allows students to meet their academic curricular needs, as well as developing skills in a specific trade such as carpentry or bricklaying. It does so through the framework of an academic teacher and a trades teacher with support from educational assistants. It is imperative that these at-risk students benefit from the specialized training of both certified and qualified teachers and qualified educational assistants.

As well, we offer a house-building program at eight sites in our board. Students receive high school credits while developing their skills in the construction trade. The program includes a short in-class component at the beginning and then provides the opportunity to spend all day on a construction site. The students involved in this program require the supervision of teachers. Again, these potentially at-risk students benefit from the teachers who are trained to support their needs. Students who successfully complete this program are motivated to earn their remaining credits and have gained valuable, practical skills.

In Ottawa-Carleton, there are currently four alternate sites. The alternate program provides a less structured environment, which requires a focus on individual responsibility on the part of the student. Students concentrate their efforts on one credit at a time in a more personalized atmosphere, and teachers provide the curricular supports. As well, teachers provide a much-needed life skills course from which these at-risk students benefit. The alternate programs retain many of those students who might not otherwise be successful in a more traditional learning atmosphere.

As well, the co-operative education program, or co-op, is thriving in Ottawa-Carleton. Co-op provides a link between learning in the classroom and learning in the worksite, as students can gain academic credits through a work placement. This program appeals to a wide variety of students and offers opportunities in a variety of fields. For example, we have students who enjoy placements in schools, hospitals, automotive centres, offices, stores, banks and research institutions, just to name a few. Co-op gives students a taste of what they are working towards and provides motivation for them to buckle down and get their credits.

I will briefly refer to OYAP, the Ontario youth apprenticeship program, a program with which you may already be familiar, which has established a formal link with licensed trades. This is again a valuable initiative for students, monitored by qualified teachers, who are best able to provide the supports needed by our students.

As you can see, we don't need this bill. If you are looking to allow more students access to the types of opportunities I have mentioned, then I ask you to provide the support and funding required to do just that. If you are looking to allow more students access to these types of opportunities, I would encourage you to share best practices throughout the province. If you are looking for new ideas to allow equivalent learning opportunities, then please allow the boards the flexibility to use their creativity and emphasize programs that are important to the needs of their students, and support and fund these pilot projects.

Whether you believe that we need to increase and/or provide new equivalent learning opportunities, please remember that schools, teachers and board-employed professional support staff contained within them have the best chance of providing these programs successfully. Thank you.

The Chair: Thank you very much for your time today. We should have time for one question, and in the rotation it's Mr. Marchese's turn.

Mr. Rosario Marchese (Trinity-Spadina): Thank you for your presentation, Kerry. I've been arguing all along that the government has the means to expand the current delivery of alternate programs, and you just made a long list of them. What prevents the government from continuing to expand those good examples you mentioned, or possibly others? What purpose would there be; and do you know any teacher in the system who supports this bill, by the way?

Ms. Houlahan: No.

Mr. Marchese: And with respect to why the government would be doing this—

Ms. Houlahan: I'm not sure why they would be doing this. I believe that we are already able to provide, as I've indicated, the equivalent learning opportunities. We need the funding to keep those programs in place and to pilot new initiatives, as well.

Mr. Marchese: Mr. Chair, sorry. Are you rotating?

The Chair: You have the rotation this time, and you have about a minute-and-a-half for questions.

Mr. Marchese: Okay. Thank you.

The Chair: You're using your time very economically this time.

Mr. Marchese: Of course. One of the things that concerns me is the fact that they would punish parents. For example, if they knowingly hold back a student—at least, while he's working as opposed to being in school—a parent could be fined; the student could be fined; the employer could be fined. And it used to be \$200 under the Tories. Under the Liberals, it's going up to a thousand bucks.

Students also can't get their licence unless they get their graduation. What do you think about those other

punitive elements of this bill to get students to stay in school?

0920

Ms. Houlahan: As an educator, I don't believe that punitive measures achieve results that meet student needs. I believe that motivation from a positive angle produces better results and that punitive consequences will not bring about the changes or the learning that we are trying to achieve for our students, especially those students most at risk.

Mr. Marchese: And that's the point, Kerry: Motivation produces the best result, and providing the better programs does that. This is why it puzzles me. I expected some bill like this to be introduced by the Tories, so when it's introduced by Liberals, it worries me, because then I wonder what they're thinking and what they're doing. If students have problems and they're not dealt with by age 16, whether they're psychological, sociological, economic or educational, how can we seriously help those students after age 16?

Ms. Houlahan: We certainly can't help them by providing learning opportunities without certified, qualified teachers and the supports that teachers have access to for their students within schools. It would be ridiculous to think that that would happen on a work site with a small business owner, for example.

The Chair: Thank you very much for your time today and for taking the time to come in and see us.

Mr. David Smith—is David Smith in the room? Okay. Alyson Aylsworth?

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION DISTRICT 25, ONTARIO TEACHERS' BARGAINING UNIT

The Chair: The Ontario Secondary School Teachers' Federation, district 25, Susan Rab? Welcome this morning, and good morning.

Ms. Susan Rab: I guess no more scribbling allowed in terms of getting ready.

The Chair: Oh, it's very informal. You'll thoroughly enjoy it. I guess if you've been in the room, you've picked up the general ground rules. You have 10 minutes for your presentation. If you leave any time remaining, we'll divide it among the parties for questions, if there's enough time for a round. Please begin by identifying yourself for Hansard and then proceed.

Ms. Rab: I'm Susan Rab, and I am the past teachers' president, currently working as an occasional teacher for this semester in the Ottawa-Carleton District School Board. We've provided a written submission provincially and I'll be expanding upon that.

On behalf of the members of the Ontario Secondary School Teachers' Federation in Ottawa-Carleton, I thank you for the opportunity to speak this morning. The 4,000 members of district 25 include teachers, occasional teachers and all unionized support staff who work for the Ottawa-Carleton District School Board, including

custodians, educational assistants, psychologists, social workers and the like.

Our membership has grave concerns about the impact of Bill 52, Learning to Age 18. If passed, it will negatively affect student learning and has the potential to undermine public education in the province of Ontario. Surely that is not your intention.

As my colleague Kerry Houlahan has previously described, our schools already provide innovative programs to address the needs of students, particularly those at risk of not graduating.

I want to be clear: My education degree was earned at an outdoor and experiential-led program. I fully support non-traditional learning settings. While many of us think of school as four walls of a classroom with desks in a row, that's not where kids learn best and, for many of our at-risk students, that setting makes it difficult to learn at all.

But quality education does take place in a setting where a trained teacher is supported by the larger school community, delivering a curriculum which meets agreed-upon standards. We need more innovative programs within the structure of publicly funded schools.

We currently live in a society which expects certain emotional and safety standards for its students. For the last decade, the government of Ontario has been determined to monitor the quality of teachers in Ontario. For better or worse, the College of Teachers became the licensing agency for teachers in Ontario. It ensures that teachers have received adequate pre-service training from an accredited faculty of education.

Boards are required to report when people leave their employment under questionable circumstances. New boards must contact the previous employer before hiring an experienced teacher. In cases where professional standards are not met, the college revokes licences of teachers and they can no longer teach in the province. The public expects this now. We are entrusted with educating young people. Bill 52 does not appear to establish a parallel—and expensive—licensing system for instructors in each equivalent learning setting. In the litigious society that we live in, with high demands of public institutions, it's patently unreasonable to train, license, monitor and track teachers who provide the majority of credits within a school system and then say, "Oops. Too bad. It just so happens that Johnny got himself into a very unfortunate situation with an uncertified instructor, with a negligible support system, and no monitoring system."

On a day-to-day basis, teachers monitor attendance of students. Mechanisms are in place to track attendance, follow up with parents and, when necessary, refer to guidance counsellors, social workers, vice-principals or attendance counsellors. We can't expect the local landscaping company to establish a similar set of procedures. We can't expect the local landscaper to be following up and wondering about further risks of non-graduation or, worse, whether abuse is happening at home or whether there are other incidents that need to be intervened upon. They're in the business of landscaping, and that's fair.

Professional development is provided in our schools by a trained school principal. In the staff room, there is sharing and support of colleagues. Further training is provided, procedures are put in place, they're implemented and reviewed. Colleagues have time to discuss among themselves and to establish norms. A faith-based institution doesn't have the capacity to do likewise.

When a coroner's inquest determines that a particular death was avoidable, laws are passed and procedures are implemented to ensure that every single teacher in the province is trained in addressing anaphylactic shock. A volunteer community organization cannot respond in a similar fashion.

In our schools, we have an induction program that's been established to bring new teachers into the profession. There's an orientation program, professional development is organized, and individual mentors provide guidance regarding fire drills, boundary issues and the like. A students' federation does not have the same resources to implement.

All of the above-named groups in Ontario society can and should contribute to the education of Ontario's young people, but they're not in the primary business of education. They have their own interests, their own needs and their own priorities for their limited resources. Asking them to become de facto schools in the year 2006 would not be efficient, cost effective or safe, nor would it improve the quality of education in our province. Teachers and support staff in publicly funded schools have the skills, knowledge and support systems to teach students in a safe and caring manner. We need to expand the learning opportunities for our neediest students. Let's do it where the best chances of success exist: the publicly funded education system.

The Chair: Thank you very much. We should have time for one question, and in the rotation, it's the government side.

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Thanks very much, Susan, for your presentation. By the way, I had the opportunity, along with Mr. Marchese, to address your annual meeting. I want to say to you for the record that your "Putting students first" approach is almost precisely where this government is heading, so thank you for that. You've taken some leadership in other areas, which we've mirrored—in fact, copied—so we appreciate that.

You mentioned that you experienced part of your education in a non-traditional setting. I did as well. When I was at grad school, I arranged a field placement here at Queen's Park, with the NDP caucus as a matter of fact, only to be told by the graduate school I was at, "You couldn't do that. You'd never be successful in politics unless you were supervised by somebody who's got an MSW." Anyhow, as fate would have it, that was a great learning experience for me. Within the school guidelines, the stakeholder who assisted was able to cope. So there can be ways we can do that.

0930

I guess my question to you is, if we could find ways to build in the links—and you probably know that the

minister and the PAs to the minister have been meeting with the various associations around the whole issue of linkage. If we could find ways to build in the linkages so that we can take advantage of our community partners who want to stand shoulder to shoulder with our kids and help to ensure that they're successful, if we can find ways to build those links in a way that makes sense to us all, is this equivalent learning and dual-credit thing something that you'd be prepared personally, given your experience, to embrace?

Ms. Rab: Yes, and I think that we're currently doing it. When the bill was first introduced, you heard from OSSTF that as long as secondary credits were affiliated directly with a school board under the supervision of a certified teacher, then we're in favour of partnerships.

I spent six years taking kids to Korea. They got credits in Korean language and we certainly worked—I didn't have a huge experience personally in a lot of the subject matter, so I was forced to work with community members and to deal with partners in a way to provide education to our students. But the key there was that the direct responsibility in terms of safety, in terms of the value of a credit, was done by a teacher under the direct supervision of a principal.

Mr. McMeekin: The kinds of provisions we do for co-op?

Ms. Rab: Yes.

The Chair: Thank you very much for having come in this morning.

DAVID SMITH

The Chair: Let's see if some of our presenters are in the room now. David Smith? Please come and sit down. Good morning. I'm glad you could join us. You'll have 10 minutes to make your deputation. If you don't use all of it, then some time will be allocated to the parties in a rotation sequence to ask you questions. Please begin by stating your name for Hansard, and the floor is yours.

Mr. David Smith: Thank you very much. My name is David Smith. I'm a grade 12 student at Ancaster High School in Hamilton, Ontario.

Ladies and gentlemen, good morning. As a concerned student and a voter, I am here today to submit my opinion and that of many of my peers to the committee regarding the ratification of legislative Bill 52, the Education Statute Law Amendment Act.

I am here today because this act directly affects me, my peers and many high school students to come. I felt it was my responsibility as a student and a citizen of Ontario to express my views on the various issues addressed by the bill.

I've been in the Ontario secondary school system for five years now. I have yet to graduate, as I took a one-year exchange program to Japan in 2004-05. On my return, I returned to the school system and hope to graduate in June of next year. I feel that my experience in the Ontario system, as well as that in the Japanese education system, has given me a broader understanding

of how students learn and how the education system works.

Bill 52 is aimed at making many changes to the Education Act and to the Highway Traffic Act of Ontario. This morning I would like to discuss some of the major issues the bill addresses.

The first issue I would like to tackle is the so-called equivalent credits. These are credits proposed by the assembly to grant to students for completing, as has been suggested, between 45 and 65 hours of unpaid work or equivalent study. It is my understanding that this can give the students two credits toward their Ontario secondary school diploma, one of which is a university or college credit which can be used in university applications.

The truth is, these credits are nowhere near equivalent to that of a traditional high school credit because in quantity and quality, time spent and the actual effectiveness of the learning or training provided is nowhere near that of a high school level. It is truly inequitable for a student to be able to go to Wal-Mart and stock shelves for 45 hours and get two credits for that, while a student in the traditional system has to work 110 hours in a classroom setting in order to get one credit. Furthermore, the actual amount of work done in these placements is yet unspecified and would likely be far less rigorous than that of a traditional classroom setting. Basically, my doing a grade 12 university credit is being compared to someone working at some sort of business to get a credit.

In regard to the credit courses offered by post-secondary institutions such as colleges and universities, these programs are not regulated to meet the same standards as the Ontario high school curriculum. Although many respected institutions are able to provide these courses, they would probably ask for tuition from students. As well, in the Student Success Commission it has been said they would receive funding for each student. That seems a little bit like double-dipping, does it not? The problem with giving the money to these institutions for taking the students is that it would dig into funding for music, sports, fine arts and drama. Keeping 85% of students in school until they graduate is not really worth it when you're taking out of the school system what that 85% stays for.

The next issue is that students doing work for credit at a third-party employer take jobs away from students who need them. Some students are at school part-time for the purpose of working half their day and going to school half their day to fund their post-secondary education. I personally know a few students at my school who are doing this, and charging their employer for employing them during school hours is completely unfair.

Furthermore, taking licences away for truancy issues is completely illogical because, for some students, it's their only way around. You're from my area, Mr. McMeekin. You know lots of Ancaster students are from rural areas—Mount Hope, Caledonia—and a car is their only way to get to school, work and family obligations.

Mr. McMeekin: David, I hear you.

Mr. Marchese: But does the minister hear too?

Mr. McMeekin: Yes, the minister hears too.

The Chair: Order.

Mr. Smith: It's their only way to get to these obligations, and punishing the students by taking their licences away is not what you want to do. This aspect of the bill would punish students rather than reward them. Is this really the kind of mentality that the Ministry of Education wants to give to students?

The next thing is, as I mentioned, I was an exchange student for a year. I am now 18, coming back into the education system, and there is wording that permits the suggestion that funding might be capped for students above the age of 18. I would not have been able to complete my exchange and have the opportunity to learn a second language, to become fluent in it and fall in love with the country. I fear that this opportunity would be taken away from younger students.

Many of my peers have planned their courses to finish them in four years but have changed their minds. To come back without funding would really curtail their opportunities to experience what they would like to.

Over my experience in high school, I have experienced many things, some good and some bad. For the most part, changes in our government have not truly affected me, but this bill does. It affects me and it affects my peers. It's our education. And I'm sorry to say it's not the assembly's education; you've done your schooling. It's not our parents' or our teachers'—it's ours.

I sincerely hope that in future you would make students aware of the schools you're affecting, what you're doing, because I only found out about this bill two weeks ago. That's deplorable. It's been going on for approximately a year now, and I only found out about two weeks ago. So I sincerely hope that in future students can be made aware and be invited to take part in the decision-making process.

In conclusion, I believe that, first of all, we have a right to know about changes to our education. It should be made clear to the students of Ontario. The equivalent credit system proposed by the bill not only takes essential funding out of schools but it allows students to get credits they really don't deserve. There are plenty of programs already in place in school systems in non-traditional learning, and they work. So why mess with them?

The Chair: David, you have a little more than a minute and a half left.

Mr. Smith: Yes, sir. If this bill is put into law, it would create so many problems in schools and in the community, putting non-post-secondary-bound students into dead-end jobs, where they will probably stay long after they get their credit because they don't have the education to get into better jobs. If students are put into those situations, seven times out of 10 their children will be put in the same situation and the intellectual degeneration of Canadian society will get exponentially worse.

0940

Ladies and gentleman of the standing committee, Bill 52 creates many problems that affect our education. These problems must be addressed.

The Chair: We should have time for one brief question. It's Mr. Klees's turn in the rotation.

Mr. Klees: David, thank you very much for your presentation. You're affirming, from a student's perspective, what we've been saying to the government from the day that we first saw this bill: that it's terribly flawed and it really should be withdrawn in totality.

I would have this question for you because, under the guise of this bill, the government is suggesting that this is all about keeping students in school until they're age 18.

Mr. Smith: Yes, sir.

Mr. Klees: What do you feel should be done to encourage students to graduate rather than drop out?

Mr. Smith: I think we should tailor the current curriculum towards the students who choose not to do a more traditional thing. As has been said by the previous presenter, there are no actual teaching accreditations to these facilitators of these extracurricular credits. In Ancaster High School, there are classrooms that are unused. I know that students would like to take tech design or electronics, but there are no teachers there to teach them. So tailoring the curriculum more towards those students and not so "all university-bound; everyone's going to university" sort of thing would allow students to get better prepared to enter the workforce.

The Chair: Thanks, David, for coming in.

ALISON AYLSWORTH

The Chair: Our next deputant is Alyson Aylsworth. Is Alyson Aylsworth present? Good morning. If you've been here a little while, you know the general procedure. You'll have 10 minutes to make your deputation this morning. If you leave any time remaining, the next party in the rotation may have a chance to ask you a question. Please begin by stating your name for Hansard, and proceed.

Ms. Alyson Aylsworth: My name is Alyson Aylsworth. Members of the committee, good morning. I'm speaking to you today wearing several hats. I'm a parent of a seven-year-old boy and a 12-year-old girl. I've been a high school teacher for 23 years and a department head—that is to say, middle management—for 20 of those years. I'm a musician and I really love my job. I'm happily married, 18 years, to another musician who's a small business owner. I work at a terrific school, in a building that is falling down. Mine is a school that has high standards in the classroom and a huge commitment to its students extracurricularly. I and my colleagues truly believe in a nuanced and experiential education for all.

I fervently believe in public education. I always tell my students that they must live in their world and they must not accept sound bites in place of news analyses. As a community leader, I put my money where my mouth is. I try to read the front section of both the *Globe* and the *Star* every day. And so I found, multi-tasking at a staff meeting, an elegant argument for public education that I've asked the clerk to distribute among you. If any of you were at last Thursday's dinner and heard Senator

Hugh Segal in person—perhaps you'll bear with me. It's on a caution-yellow sheet; I'm reading the middle of it. The whole speech was just terrific.

"Without a dynamic and compelling public education system, we surrender one of the only ... instruments for the management of diversity, the development of common cause and common equality of opportunity within our pluralist society. Without kids learning about each other in a common setting instructed by caring, properly recognized and fairly paid teachers who reflect the best and brightest of our society, we would simply and directly be surrendering the imperatives of social cohesion and civility to the forces of fragmentation."

The Chair: Could you just lean back just a bit further from the microphone?

Ms. Aylsworth: I'm sorry. Am I driving you nuts? Okay.

The Chair: Yeah, just push it up a bit. Thanks.

Ms. Aylsworth: I have very bad eyes. If I get that I can't read this, I'll yank my contacts out and we'll go with glasses.

The Chair: It's a problem you share with the Chair, so don't worry.

Ms. Aylsworth: Yes, it's an aging thing. When you get to be 46, it's—I'm back on my little read here.

"These forces may be benign, humane and well-intentioned. But they are the forces of fragmentation."

He goes on, "Public education is about our own common resolve about the future we share. And I happen to believe that when the dynamism, quality, commitment to excellence and central social standing of our public education system are in peril, so is our future together." That's from Hugh Segal.

My chief concern with Bill 52 is the idea of course equivalency. What is very unclear is the direction which the ministry is intending for public education, and what is very scary is the direction which could be taken, given the lack of accountability in the language of the bill as it stands. I guess what it is that I don't understand is the need for it. The ideas in the bill are not new. Really, they are not.

Much is being done in alternative education to reach the disenfranchised group that one would think would be the target for this bill. The student success initiative has this year piloted Turning Point. We have the GET program in our school, and it's working well. We have SALEP, supervised alternative learning for excused pupils. The Ontario youth apprenticeship program is another exciting initiative. These are specifically designed concepts, taught by experienced, qualified professionals. These models are under the supervision of principals and boards of education who are, in turn, responsible to the ministry for exacting standards and ethical practices.

I know that students should stay in school in courses that seem relevant to them. I know that it is the intention of this bill to address that issue. There are truths, however, that are not being regarded. One is that some students come to their schools distressed by their own

issues or family issues. The truth is that our supports are in place for these students, but these supports have been subject to so many cuts that they are seriously eroded. Not all who have needs can be served in a timely manner, and this deficit affects the students who are most at risk, those who need one-to-one contact with teachers who are trained and experienced to meet their specific needs. Funding must be restored to strengthen these programs already in place, not handed out to new sources.

It is certainly a truth that high school students will take the easy route, if there is one, and live to regret these choices at their leisure. Watering down credits so that the bar is so low that anyone can step over it will seem terrific to them at first because they lack the foresight, especially if there is nothing to distinguish between a rigorous Ministry of Ed course from one that is quite different in its substance.

But it is also a truth that when I walked across the road to where students were smoking the other day and talked to those whom you may imagine were quite likely to be there—students who, for the most part, knew me by reputation only—the seniors were united in that they did not want Ontario society to be undereducated and narrow in focus and frame of reference, limited and limiting. We were all on the same page. We cannot chip away at Ontario education so that it becomes a farming system for industry. Rather, Ontario should be a leader in turning out dynamic graduates with well-rounded and diverse educational backgrounds, grads who will be able to take their place in a continually evolving workplace, as is the reality of the world of work today.

There is another truth, and that truth is that teachers are good at teaching. They care about education and educating students. They are solely focused on the idea of raising comprehensive young Canadians. Education in the private sector is at least two-pronged. As teachers, we recognize that every student has different needs and some of our students require the services of the alternative education programs already in place. Their involvement in these alternative programs provides for many students the opportunity for success. That success is based on real achievement, as specified by rigorous standards.

Bill 52 is void of language to protect and guarantee standards of excellence. Our students' self-esteem is nurtured by success, but that personal growth would be compromised without carefully monitored and tailored standards. What sense of achievement could the student have regarding the completion of a credit that offers no challenge?

I have been, with my ensembles, in public schools in the States where public education is devalued by high achievers and certainly not considered by any with the means to send their children elsewhere, where there are few electives and no joy.

I believe that this bill, while well intentioned, puts not only our at-risk students in harm's way but it compromises the integrity of our entire system and leaves us subject to the kind of criticism that forces parents like me to consider the private school.

Thank you very much for your time.

The Chair: Thank you very much for having come in. I think we would have time, Mr. Marchese, for one economical question.

Mr. Marchese: Thank you, Alyson. It's amazing to me that this government has broken so many promises yet it's keeping one of the most inexplicable of bills: Bill 52. This is the one they should drop, yet they're keeping it. I can't understand it for the life of me. Most educators are against it. Seemingly, there are a number of intelligent people in that caucus, yet the minister has been a—

Ms. Aylsworth: There are a lot of intelligent Liberals.
0950

Mr. Marchese: This minister has been a supporter of this bill, and I just don't get it. Do you get it?

Ms. Aylsworth: Yes. I think the intention was to really help at-risk students, but I've been reading lately about the BC model and that scares me, because I think my job is going to be farmed out. And that's fine. I've got seven years left; I won't be farmed out.

Mr. Marchese: But as you said, the way to help kids is through the current programs that you mentioned.

Ms. Aylsworth: I would hope so, yes.

Mr. Marchese: So why not expand that?

Ms. Aylsworth: Well, because the Harris government pulled funding from those programs and they no longer—

Mr. Marchese: So why not improve those?

Ms. Aylsworth: I think we need to improve the funding. I think those programs are terrific, and they have been honed and honed. Even as we speak, they are being honed by teachers in the system, as we all hone our arguments every day.

The Chair: Thank you very much, Alyson.
Interjection.

Ms. Aylsworth: Absolutely.

The Chair: Mr. McMeekin, can you please address the remark through the Chair.

Thank you very much, Alyson, for coming in this morning and for your very interesting deputation.

Our next deputation is the Ontario Secondary School Teachers' Federation, Simcoe county. Mr. Joe Lamoureux, are you present in the room? No. Okay.

FÉDÉRATION DES ENSEIGNANTES ET
ENSEIGNANTS DES ÉCOLES
SECONDAIRES DE L'ONTARIO—UNITÉ 57,
DISTRICT 31

The Chair: I have a request from the clerk to, in view of time constraints, ask for la Fédération des enseignantes et enseignants des écoles secondaires de l'Ontario—unité 57, district 31. Lynn Filion?

Mr. Marchese: Sorry, Chair. This society is not here either?

The Chair: They are, and through the clerk, we have the flexibility in our time to remain on schedule and to deal with la fédération tout de suite.

Mr. Marchese: You're switching them?

The Chair: Yes.

Mr. Marchese: Why don't you just say that? Okay.

The Chair: Mr. Marchese, we're doing our best to enable them to meet a pretty inflexible flight schedule.

M^{me} Lynn Filion: J'ai un vol à 12 h 10, alors je vous remercie.

Chers membres du comité, bonjour. Je m'appelle Lynn Filion. Je représente le personnel de soutien en éducation ainsi que le personnel professionnel des services aux élèves du Conseil scolaire public du Grand Nord de l'Ontario.

Juste pour vous donner un aperçu de notre géographie, le conseil a un total de 19 écoles, dont 11 écoles élémentaires et huit écoles secondaires. Nous avons environ 1750 élèves au palier secondaire, un territoire de 550 mille kilomètres carrés qui s'étend de Noëlville jusqu'à Longlac, comptant une distance d'au moins 12 heures de route.

Ceci dit, le projet de loi 52 sur l'apprentissage jusqu'à l'âge de 18 ans, tel que proposé par le gouvernement McGuinty, repose sur deux points :

(1) exiger que les élèves fréquentent l'école jusqu'à l'âge de 18 ans, que ce soit dans une salle de classe ou par le biais de possibilités d'apprentissage équivalent;

(2) fixer des mesures d'exécution pour s'assurer que les élèves fréquentent l'école jusqu'à l'âge de 18 ans telles que refuser le permis de conduire ontarien à ceux qui décrochent.

Mes membres ont plusieurs questions et inquiétudes en ce qui a trait aux conséquences de l'apprentissage équivalent et des crédits externes. Par exemple: où seront dispensés ces cours d'apprentissage équivalent?

La réalité francophone est très différente de celle des anglophones. Les conseils scolaires francophones ont des étendues géographiques larges où l'on retrouve de nombreuses petites écoles dans des petites communautés. Nous n'avons simplement pas accès aux mêmes services communautaires en français.

Les opportunités collégiales sont aussi restreintes. Par exemple, à Sudbury nous offrons un cours en techniques d'évaluation d'automobile en partenariat avec le Collège Boréal. À Longlac et à Elliot Lake, ces cours ne sont pas disponibles aux élèves. Il n'y a pas de campus dans la communauté; non seulement qu'il n'y a pas de campus collégial, mais il y a très peu d'organismes francophones. Il y a tellement peu d'organismes francophones qu'un des crédits de source externe que le ministère de l'Éducation considère dans son plan aurait été offert par la FESFO. Comment ironique : des élèves qui forment des élèves. Plusieurs de ces petites communautés ne font même pas partie d'une municipalité organisée.

Ce projet de loi n'est pas équitable pour tous, plus particulièrement pour les francophones, parce que nous serons à la merci des organismes anglophones pour fournir des crédits d'apprentissage équivalent. Nous croyons que le plan d'apprentissage équivalent nuirait à nos élèves en favorisant l'assimilation. Nous avons besoin d'améliorer les programmes scolaires existants et de continuer à offrir des services de soutien professionnel

à ces élèves afin qu'ils reçoivent les divers types d'aide à l'apprentissage dont ils ont besoin.

Une autre de nos inquiétudes : qui approuvera les fournisseurs de ces cours? Le personnel associé à ces cours d'apprentissage équivalent sera-t-il soumis à une vérification du casier judiciaire?

Les parents savent que les écoles secondaires gérées par les conseils scolaires ontariens offrent des environnements d'apprentissage sains et sécuritaires et du personnel professionnel spécialisé. Les parents savent que tout le personnel du conseil scolaire a subi une vérification de leur casier judiciaire et qu'il est évalué régulièrement. Le personnel des écoles pense avant tout à la santé et à la sécurité de tous les élèves. La bonne communication avec les parents est pratiquée et attendue. Présentement, les secrétaires d'école s'assurent d'aviser les parents lors d'une absence. Est-ce que les établissements qui offrent des cours externes aviseront les parents? Feront-ils un suivi si l'élève est absent? Les mesures de protection nécessaires seront-elles en place pour assurer la sécurité des élèves?

Un autre point : comment le ministère s'assurera-t-il que les crédits externes et doubles suivis par les élèves ne diminueront pas les fonds alloués aux conseils scolaires?

Le gouvernement a proposé que la mise en oeuvre du projet de loi 52 entraînera une nette augmentation des inscriptions dans les écoles secondaires. Il assume que les élèves qui n'ont pas réussi au niveau secondaire peuvent revenir avec l'aide des crédits doubles et externes. En ayant la possibilité d'acquérir jusqu'à huit crédits de sources externes, et sans limite sur la manière dont les élèves peuvent utiliser ces crédits pour obtenir leur diplôme, il y aura une perte inévitable d'inscriptions au niveau secondaire surtout dans les écoles francophones.

La composante principale des règlements prévus liés au projet de loi 52 est une structure financière incitative. Ce financement rattaché au crédit au niveau secondaire sera le commencement d'une éducation à charte en Ontario. Les collèges et les universités, de même que les organismes religieux et privés, auront libre accès aux fonds destinés à l'éducation publique grâce à ces bons d'études. Ces établissements ont fait beaucoup de lobbying afin d'accéder à ces fonds. Il n'y a aucune attente que les fonds qui sortiront des écoles élémentaires et secondaires seront remplacés par un autre financement de base. La perte de fonds pour le système public qui en résultera aura un effet dévastateur surtout pour les conseils francophones qui ont déjà du mal à offrir une gamme complète de services.

Cette année, notre conseil a été obligé d'épuiser des fonds de ses réserves afin de pouvoir offrir des services adéquats. Nous avons perdu des postes de secrétaires d'écoles secondaires ainsi que des commis de bibliothèque. Si plusieurs élèves suivent des cours d'apprentissage équivalent externes, et si le financement est réduit, les conseils scolaires seront-ils forcés de fermer les écoles qui seront maintenant sous-utilisées?

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Notre dernière inquiétude repose sur le fait que le ministère veut refuser le permis de conduire ontarien aux

élèves jusqu'à l'âge de 18 ans qui décrochent. Les éducateurs encouragent les élèves à fréquenter l'école en leur offrant un environnement d'apprentissage attrayant et intéressant qui répond à leurs besoins. Les élèves du palier secondaire qui rencontrent des difficultés à l'école ne seront pas plus intéressés à apprendre en se voyant refuser le permis de conduire. Les élèves du nord de l'Ontario qui habitent dans des régions rurales n'auront pas nécessairement des services de transport municipal, tels que l'autobus et le métro, comme ceux qui habitent dans les grandes villes. Ils subiront des conséquences beaucoup plus sévères que ceux qui auront accès à ces services de transport. Ce n'est ni juste ni équitable pour ces élèves.

La FEESO est d'avis que le projet de loi 52 est inutile et doit être retiré.

Des occasions pertinentes d'apprentissage équivalent sont présentement disponibles et sont offertes dans plusieurs conseils scolaires par les écoles secondaires de l'Ontario, de la neuvième à la 12^e année : Préparation au diplôme d'études secondaires de l'Ontario. Toutefois, des fonds additionnels sont nécessaires pour améliorer les installations et offrir davantage de choix de cours aux élèves, les cours que nous avons déjà en place.

Les ramifications du projet de loi 52 entraîneront une dépréciation importante du diplôme d'études secondaires et du milieu des écoles secondaires en Ontario. Aucune modification ne pourrait empêcher de manière adéquate le mal causé par l'introduction généralisée de cours externes et de cours doubles par des fournisseurs illimités et non spécifiés d'apprentissage équivalent.

Le Président : Merci beaucoup. Il reste le temps pour une petite question du gouvernement.

Mr. Khalil Ramal (London-Fanshawe) : Je n'ai pas de question. Merci beaucoup pour votre présentation. Je pense que notre gouvernement travaille, comme la communauté francophone de l'Ontario, pour établir un mécanisme spécial pour « implanter » cette loi.

Le Président : Merci beaucoup pour votre présence et votre députation ce matin.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 17 SIMCOE COUNTY

The Chair : Our next deputation is from Mr. Lamoureux from OSSTF, Simcoe county. Is Mr. Lamoureux in the room? Come on forward and sit down. If you've been in the room a little while, you get the general gist of the ground rules.

Mr. George Lamoureux : No, I'm sorry. We had to wait for the Speaker to come through and I was unable to—

The Chair : Okay. You have 10 minutes for your deputation this morning. If you leave any time, it will be given to the next party in the rotation. Please begin by stating your name for Hansard and then continue.

Mr. Lamoureux : My name is George Lamoureux and I am with the Ontario Secondary School Teachers'

Federation. If the committee wouldn't mind, I'll read my statement and then entertain questions.

I'd like to thank the members of this committee for allowing me to speak as president of district 17 (Simcoe) OSSTF, on behalf of the over 1,500 teachers and occasional teachers employed by the Simcoe County District School Board.

I wish to expand upon the written submission made by the Ontario Secondary School Teachers' Federation to accent the local realities that would be negatively changed if this piece of legislation were to proceed in its present form. My members are extremely concerned and disturbed by the apparent lack of respect for their professionalism and degradation of the credit integrity that is contained in the provisions of this legislation, specifically in reference to subsection 8(1), which proposes to allow approved providers to issue credits.

My members already dutifully provide this service to all of the students in Simcoe county. We work extremely hard to ensure that the most vulnerable students receive the best education possible so that our young people are successful. My members work tirelessly to ensure that all the needs are met for the students by offering unique and extensive programs for pupils. A lack of funding has been our biggest challenge as we seek to squeeze every dime possible out of a funding formula that does not adequately meet the needs of our students.

With the proposed legislation, we would lose precious dollars to outside agencies that offer a program that is less comprehensive and lacks the integrity of the current credit system. Coupled with this is the proposed ability of those outside of the profession to offer credit.

In Simcoe county, we have a program to deliver experiential learning. It's called the co-operative education program, which offers diverse and meaningful programs for all the students, with special emphasis on those who have been considered at risk. For example, at Bear Creek Secondary School in Barrie, we offer a heavy machinery co-op program that is the envy of the province. Another example: Bradford District High School in Bradford offers, in conjunction with local trade unions, a unique program that allows students to experience the construction industry in all its facets. As well, all our 16 secondary schools offer Over the Top Co-op education programs that support students who are currently looking to complete their Ontario secondary school diploma but short only a few credits and currently in the workforce. Those programs highlight the potential within the publicly funded secondary school system that is currently free from siphoning by outside agencies and provided by teachers who are accountable to the public.

I taught in New Zealand for a year and a half in the mid-1990s and saw first-hand the devastating effects of allowing funds from the public school system to be offered to private or post-secondary credit-granting agencies. This concept of allowing students to move their funding from public to private agencies is called vouchering. This system saw students leave the current school, as programming was unavailable to be offered locally

due to a lack of funding, and the resulting transient nature of the students which the voucher system promotes. Students became consumers who shopped around for the types of courses that could be offered. The only way for publicly funded schools to compete was to offer unique programs which, sadly, left those students who could not afford transportation to various sites or who had suffered academically with little or no options. Vouchering resulted in the loss of those teachers and support staff who were newest to the profession.

All the good that this government has done in education could quickly be reversed as the newer teachers are removed from the system as cuts result from the loss of student population. My members are offended by the pieces in this legislation that support the notion that non-members of the college of teachers are as qualified to teach as they are.

As a current PhD in education student, I am appalled to see in the legislation the concept that educational training and professionalism of teachers is disrespected and ignored. It's abhorrent that any government would consider proposing legislation in the education field that would not include a full and clear expectation that the only persons who should deliver credit are those who are qualified and safe to be placed in a position of trust as teachers.

In my board, we currently offer alternative education programs that encompass high-needs, at-risk students along with young mothers' programs that allow students opportunities for success that otherwise would be unavailable to them. Those programs have had to defend themselves through funding cuts and various challenges, as they are more expensive for the board to run and would surely be dropped if our board were to suffer from an exodus of students as a result of this bill.

Our local post-secondary education institution, Georgian College, has already distributed flyers throughout our system and in our coterminous board that contain the promise that a dual credit can be obtained in 42 hours. This issue makes it evident that the proposed credits from our local colleges will be significantly attractive to students and with much less integrity than the 110-hour secondary school credits.

My members deliver credible and unique programs for all our young people to be successful. This government does not need to invoke Bill 52 to satisfy their desire to help at-risk students. They just need to simply go into the local schools to see the success of programs we have been able to institute already.

Degrading the current credit system and allowing unqualified people and, in turn, unregulated individuals to deliver credit at this time is not an answer. We need to properly fund and support our qualified, regulated professionals to do their job of providing quality, publicly funded education through trained professionals, be they teachers, support staff, administrators and beyond. Within this context, a publicly funded school system will be very successful.

The Chair: Thank you for your deputation. We should have time for a brief question.

Mr. Klees: Thank you very much for your submission. Would you conclude, based on your assessment of the impact of the proposed alternative learning options in Bill 52, that if Bill 52 is passed in its current form, it would in fact result in a watering down of standards within our education system?

1010

Mr. Lamoureux: My short answer is yes, because I have seen the flyer that was put out by Georgian College, our coterminous post-secondary education institution, in my local jurisdiction, and there's no way that you can compare a 42-hour credit to a 110-hour credit. It's apples and oranges.

Mr. Klees: So while the government may well be able to pat itself on the back at the end of the day for keeping more students in school longer, the conclusion really would be that in order to achieve that, they watered down the standards in our system, and those students who are graduating may have a piece of paper, but it really won't unlock the doors they need to unlock to get on with their lives. Would you agree with that?

Mr. Lamoureux: I would, in the context that we did have a joint program with Georgian College earlier this year, a pilot program that was offered in conjunction with the school program that is already in place. It was very successful, and it would lead to more integrity of the credit that you speak of.

The Chair: Thank you very much, Mr. Lamoureux, for coming in this morning.

ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES

The Chair: Ontario Association of Children's Aid Societies—Dennis Nolan and Jeanette Lewis. Good morning, and welcome.

Mr. Dennis Nolan: Good morning.

The Chair: I believe the committee has a copy of your bound brief. Thank you very much for coming in. You'll have 10 minutes for your deputation this morning. Please begin by stating your name for Hansard. If there's any time remaining, it will move to the next party in the rotation for questions. Proceed at your leisure.

Mr. Nolan: Thank you, Mr. Chair. My name is Dennis Nolan and my partner here is Jeanette Lewis. Jeanette is the executive director of the Ontario Association of Children's Aid Societies. We have supporting us in the room Amanda Rose, one of our youth who's been living through the experiences that we're here to share with you briefly.

We'd like to, just for a moment, say something about us. We are the association that gathers together 52 of the CASs in Ontario and we do work, perform service and undertake advocacy on their behalf. We are here because we think that Bill 52 has numerous very substantial and good features. So we are pleased about the bill. We noticed when it was first introduced that it was 50 years since Ontario updated the high school leaving age requirement. They did it just around the time I was in high

school, I guess, so it's a long time ago. The government acknowledged that it was time, in the 21st century, that organizations and institutions provide the kinds of programs that are relevant today. We applaud this direction and ask that the principle also be applied to child protection age requirements, which have not been reviewed in over 100 years. OACAS supports the bill because we strongly endorse any efforts designed to ensure that youth receive the educational support they need to become productive and informed adult citizens.

Ontario children's aid societies are the parents of 18,000 young people. These young people are in our care because of significant hardships: abuse, neglect, abandonment and other disruptions. They face, therefore, extraordinary challenges in proceeding through school.

This year, we conducted a survey among 300 of our youth, and they cited four major issues that we want to bring to your attention: first, their need for emotional support, such as a stable foster home or a single reliable adult; second, adequate financial support for daily living; educational support such as special programs; and the need for—and this is what I'd like to emphasize the most—continuing support beyond age 16, to 18, 21 and beyond. As one of our youth said, "Who do you belong to after you've left the system?" The youth surveyed, especially those living on their own, recognized the value of the routine and the structure provided by the education system. They would like to stay in school longer, and so they're looking for help.

We have two concerns with the legislation. They're concerns that we think could be augmented—I should say it's not the concern that could be augmented, but that the bill could be augmented. First, the government at large needs to modernize legislation to reflect societal norms, and secondly, care is needed in developing the details to support the successful implementation of this legislation.

Now for some of those details, Jeanette.

Ms. Jeanette Lewis: I'll speak first to the statutory age amendment that we believe is needed. As Mr. Nolan has said, much attention needs to be given to modernizing some of the legislation—

The Chair: Please also begin by stating your name for Hansard.

Ms. Lewis: I'm sorry. I'm Jeanette Lewis, executive director.

As Mr. Nolan has stated, government needs to look at modernizing legislation in light of societal changes and also changes in the needs of youth. One of the most significant areas that we believe should be reviewed is the need for a companion amendment to the Child and Family Services Act to permit protection services to be offered to youth up to age 18. Under the Child and Family Services Act, the definition of "child" for the purposes of protection is someone under the age of 16. Youth are thereby able to withdraw from the care of a CAS, and CASs are able to permanently terminate their involvement with youth at that age. So that means that somebody could leave the care of a CAS at age 16 but

need to remain in school until age 18 without many supports. Once that decision is made by a youth, they cannot re-enter, because the age of protection is 16. It's our strong conviction that protection intervention and services must be available to youth until the age of 18 to reflect the same provision of support to all young people as is intended in the Learning to 18 legislation we're discussing today. In addition, we would also advocate that the age limits for extended care be aligned with societal norms and be extended to age 25.

I'm not going to go through all the other provisions of the position paper, but I would highlight that we also need to look at school culture and curriculum changes to address the needs of youth in the care of children's aid societies. These are vulnerable youth, and they are more likely than their peers to need additional support because they experience educational delays. Adolescence is a tumultuous time for children who've had the trauma of abuse, neglect, often several changes of home, changes of school. Our youth also often face mental health problems and need to cope with the aftermath of their experiences of abuse and neglect. So we need alternative learning programs to address their individual needs.

Dennis, I'll let you sum it up.

Mr. Nolan: When the minister introduced the legislation, he said that we need to have legislation that will result in high-quality, meaningful educational experiences which prepare each youth for a variety of post-secondary destinations. As you've heard and as you know and as you will find from reading our material, our youth struggle more than most in trying to achieve that. As one of the youth said, "Where am I going to find someone to push me to do the stuff? I might not know what to do or where to go for help. I'll be lost."

So our youth are asking for generally what this bill is providing. What we're asking for is that we have the additional commitment of the government to ensure the programs and supports that these youth will need. The commitment of the educational sector to these youth with their multiple needs offers a significant emotional support that increases the likelihood that they will successfully achieve the education milestones of which they are capable.

OACAS, therefore, generally endorses this bill and wishes the government and our young people every success.

We're open to questions.

The Chair: Thank you very much. We should have time for a brief question. Mr. Marchese.

1020

Mr. Marchese: Which question?

The Chair: A brief question.

Mr. Marchese: I've got to keep track of time, because it seems to change every now and then.

Mr. Nolan and Ms. Lewis, I agree with you that the Child and Family Services Act should be changed in order to be able to extend support to those young people who need it. This bill won't do it, you know that, and I'm not sure that by saying we need to do that, it necessarily

connects to this bill in the right way. I disagree with that. I agree with you that we should be dealing with the curriculum changes to deal with kids who are in your care, and this bill doesn't do it.

You've heard all the educators, individually and collectively as the association, saying, "This is not going to bring about peace and stability, certainly. It's not going to work." As a former educator, I agree with them. You heard them say that they're already providing you—the government, at least, and I'm not sure they disagree with what they're doing—with apprenticeship programs, supervised alternative learning for excused pupils and co-op programs. Surely, if they believe in them, they should be expanding those. Why aren't they doing that rather than simply saying, "We need to extend the law and provide some outside undefined agency to provide some program which may be inadequately supervised or not at all"? By whom and what cost, we don't know. Don't you have concerns about what the teachers are saying?

Mr. Nolan: I'm also a retired former educator, so—you're not retired; I am retired.

Mr. Marchese: I'm retired as a teacher. This is true.

Mr. Nolan: I retired as a director of education not that long ago—I think not that long ago.

Sure, we have some resonance with some of the things others in the province have been saying about the legislation, but we know that we need a framework piece of legislation that's going to say, "Okay. We're moving the yardsticks from here to there." Under that, as that's developed, the regulations are written and all of the other programs are developed, it will be guided by that. We think it's important to have the sorts of changes that we say. Of course we believe that the age of protection should be extended and we know this act doesn't do it. But on the other hand, when you've made the first little step towards recognizing that 18 is a better age than 16 and that the farming community is not the agenda setter anymore around harvesting and things like that, which is how we decided when we were going to have schools in session—

The Chair: Thank you very much. I'm sorry to have to cut you off.

Mr. Nolan: Darn. I was just going to make a brilliant point.

The Chair: That's why the Legislature has written submissions. Thank you very much for having come in this morning and for having delivered your deputation.

ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS—EST

Le Président: AEFO, Association des enseignantes et des enseignants franco-ontariens—Est publique de l'Ontario; M. Jean-Guy La Prairie, s'il vous plaît. Bonjour.

M. Jean-Guy La Prairie: Merci de nous accueillir pour notre requête de ce matin.

Le Président: Bienvenue. Veuillez commencer.

M. La Prairie: Mon nom est Jean-Guy La Prairie. Je suis co-président de l'AEFO—Est publique, donc de Cornwall jusqu'à Trenton, y inclus Ottawa.

L'AEFO est une association d'enseignantes et d'enseignants franco-ontariens. C'est un syndicat qui regroupe à peu près 8 000 membres, comme vous pouvez voir dans le document qui vous a été remis.

Depuis sa présentation initiale, l'AEFO a pris connaissance de certaines modalités proposées par le ministère de l'Éducation pour mettre en oeuvre les mesures du projet de loi qui touchent l'apprentissage équivalent. Ces modalités nous inquiètent au plus haut point, car nous estimons qu'elles risquent de porter atteinte à la qualité de l'enseignement dispensé au secondaire et d'être particulièrement néfastes pour les écoles secondaires de langue française. De plus, nous croyons que les initiatives proposées ne répondent pas à l'objectif initial du projet de loi, soit d'augmenter le taux de diplomation. C'est pourquoi l'AEFO juge essentiel de revenir à la charge pour inciter le gouvernement à porter certains changements aux clauses du projet de loi 52 touchant l'apprentissage équivalent.

Ici, je vais passer les deux prochaines sections que ma collègue M^{me} Ginette Lacroix-Gosselin pourra adresser cet après-midi dans sa présentation. Nous irons donc, un peu plus loin, à la page 4, où on va parler d'élargir le choix de cours.

Dans un récent discours, la ministre de l'Éducation, M^{me} Kathleen Wynne, faisait état de 53 offres de cours dans les écoles de langue française comparativement à 101 offres de cours dans les écoles de langue anglaise.

Si plusieurs élèves suivent des cours d'apprentissage équivalents à l'extérieur de leur école secondaire, l'école n'aura plus le nombre suffisant pour offrir certains cours ou programmes optionnels. On risque donc de creuser encore davantage l'écart entre les offres de cours dans les écoles de langue française et celles de langue anglaise, alors que les écoles secondaires de langue française ont déjà peine à attirer et à garder les élèves, faute de leur offrir un éventail suffisant de cours.

Des documents du groupe de travail permanent sur l'éducation en langue française dressaient en septembre dernier un portrait troublant de la rétention chez les élèves francophones.

L'AEFO croit que le gouvernement doit investir davantage dans les écoles secondaires de langue française financées par les fonds publics afin de leur permettre d'offrir plus de cours. Cet investissement assurerait une rétention accrue permettant du coup d'augmenter le taux de diplomation.

Depuis septembre 2005, deux crédits d'éducation coopérative peuvent compter au nombre des crédits obligatoires nécessaires pour obtenir le diplôme d'études secondaires.

L'AEFO est d'avis que le modèle d'éducation coopérative qui fait ses preuves depuis plusieurs années constitue un excellent moyen d'offrir aux élèves un apprentissage équivalent encadrés par des enseignantes et des enseignants qualifiés. Ce modèle prévoit des mécan-

ismes d'évaluation des élèves, respecte les exigences en matière de santé et de sécurité et permet à l'école de faire les suivis appropriés auprès des employeurs externes.

L'éducation coopérative pose toutefois des défis particuliers aux écoles de langue française à cause de la difficulté, dans bien des régions, à identifier et à recruter des employeurs de langue française. Ici, je pense que je peux parler d'expérience, ayant enseigné à Cornwall, où je devais, comme enseignant d'éducation coopérative, travailler très fort, mettre beaucoup d'énergie et voyager plusieurs kilomètres afin d'assurer que l'on puisse trouver des employeurs francophones qui pouvaient desservir nos élèves.

J'ai le même problème quand j'enseigne à l'université aux enseignants, qui doivent prendre l'éducation coopérative, pour leur faire comprendre l'importance d'aller créer les partenariats et de ne pas se limiter. C'est important parce qu'on ne veut pas—et c'est la phrase suivante ici—que les stages d'éducation coopérative qui se déroulent en anglais deviennent une nouvelle source d'assimilation pour les élèves. C'est très, très important pour eux.

L'AEFO est d'avis qu'il faudrait investir des ressources supplémentaires pour aider les écoles à établir davantage de partenariats avec des employeurs francophones.

Donc, l'AEFO recommande l'augmentation de l'offre de cours dans des écoles secondaires de langue française comme moyen de retenir des élèves à l'école et de hausser les taux de diplomation.

L'AEFO recommande d'augmenter la place de l'éducation coopérative dans des écoles de langue française et d'appuyer les écoles dans l'établissement de partenariats avec les employeurs francophones : enseignantes qualifiées ou enseignants qualifiés et apprentissage équivalent.

L'AEFO trouve alarmant que le fondement du projet de loi 52, en ce qui touche l'apprentissage équivalent, semble remettre en question l'importance que l'éducation des élèves secondaires soit livrée par des enseignantes et des enseignants qualifiés.

De nombreuses exigences sont en place pour assurer aux élèves francophones un enseignement de qualité par une enseignante qualifiée ou un enseignant qualifié. Vous avez ici huit grands domaines où on s'assure de la qualité de la préparation des enseignants, ce qu'on exige pour nos enseignantes et nos enseignants. Vous les avez énumérés ici et je vais en prendre quelques-uns : entre autres, la formation initiale offerte par des universités pour l'obtention du baccalauréat en éducation est d'une durée d'un an. Les cours offerts y traitent notamment du développement de la personne et de pédagogie et comprennent des stages pratiques en milieu scolaire.

1030

Vous savez que—on sait tous, n'est-ce pas—les enseignantes et les enseignants doivent obtenir et maintenir une carte de compétence de l'Ordre des enseignantes et des enseignants de l'Ontario. Alors, vous allez pouvoir lire pour vous-mêmes les exigences qu'on a pour les enseignants.

Le gouvernement se préoccupe depuis plusieurs années de l'embauche de personnes—et c'est bien—non qualifiées pour combler les postes d'enseignement dans les écoles financées par les fonds publics. Or, le projet de loi 52 ne prévoit aucun mécanisme pour assurer que l'apprentissage équivalent soit dispensé par des enseignantes et des enseignants qualifiés détenant une carte de compétence de l'ordre ou sur leur surveillance.

L'AEFO croit fermement que les élèves du secondaire ont droit à une éducation de qualité offerte par des enseignantes et des enseignants qualifiés. L'AEFO dénoncera donc avec ferveur toute initiative qui pourrait priver l'élève francophone de ce droit. Et vous pourrez voir la recommandation à cet effet.

Je saute la partie pour arriver à la conclusion. Très brièvement, je dis ceci : L'AEFO maintient que les nouvelles initiatives ne doivent pas porter atteinte aux droits des élèves des écoles secondaires financées par les deniers publics de recevoir une éducation de qualité dispensée par des enseignantes et des enseignants qualifiés. L'AEFO s'opposera fermement à toute initiative qui pourrait priver l'élève francophone de ce droit.

L'AEFO réitère également l'importance d'offrir aux élèves des écoles secondaires de langue française des organisations d'apprentissage équivalent en français dans des milieux francophones.

Les recommandations formulées dans le présent document s'ajoutent à celles du mémoire déjà soumis au comité.

Je vous remercie pour votre attention.

Le Président: Merci beaucoup. Ça c'est tout le temps. Merci pour votre députation ce matin.

JACK BRUCE

The Chair: Our next deputation will be from Mr. Jack Bruce. Is Mr. Jack Bruce in the room? Please be seated. Make yourself comfortable. You have 10 minutes for your deputation. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Mr. Jack Bruce: My name is Jack Bruce. I'm from Hamilton. I thank you all for this opportunity to address my concerns regarding Bill 52.

I am a public high school teacher because I find the profession an honourable one. Ontario's public education system is honourable because: It strives to provide equal opportunity for all students; it covers the cost of education for all students; it is accountable; and its employees are dedicated professionals.

Bill 52 threatens to undermine these honourable qualities. If implemented, Bill 52 will not improve the public education system. It will erode the public education system. Briefly, I will express my concerns regarding dual credits for college and university students. I will then express concerns regarding external credits for applied and workplace students. Finally, I will use ABC etc., a non-profit, arm's-length corporation that could be enabled by Bill 52 to offer external credits, to show how

damaging dual and external credits can be on the public education system.

Dual credits for colleges and universities, while attractive for post-secondary administrators, will not serve the interests of public education or students. I'm sure you have heard and will hear more about the limitations of community colleges and universities to deliver high school curriculum. They do college and university well. I can touch on these later, if you so desire.

Our public secondary school system is preparing students very well for university. In fact, when it comes to university-bound students, the public system is not in trouble, although there's always room for improvement. Indeed, the Alan King report, commissioned by the Ministry of Education and written by Alan King of Queen's University in 2005, reveals that the proportion of students going directly to university from secondary school has increased from 27% to 33% since 2000. I see no need to force these students to take dual and external credits, although I do see the ministry cutting costs and post-secondary institutions profiting.

Our public system is currently underfunded and, as the Alan King report reveals, it is the applied and workplace students who are bearing the brunt of the shortfalls. School boards and the ministry recognize the problem and are working to reduce class sizes for applied and workplace students. Continue to reduce the class sizes, provide support for staff and resources. Do not push students out of high school to fend for themselves or to attain credits outside of the system. King calls for curriculum revision for applied, workplace and college courses. I urge you to recognize curriculum revision within the public system.

King recognizes that few workplace courses are offered across the province. Provide the funding to allow schools to run workplace courses and you will see improved success and reduced dropout rates for workplace students. When workplace students are forced to struggle in college courses, students, teachers and other educators within the system are strained.

Bill 52 will further erode the number of students applying for workplace courses, as these students will need to take dual and external credits. Four dual or external credits out of 30 is a 13% reduction in students, teachers, support staff, school administration, education assistants and courses offered; eight dual or external credits is a 27% reduction. Help students by giving them an opportunity to benefit from all that the public education system has to offer. Do not let Bill 52 limit student access to public school.

For my last point, I wish to state my concerns regarding who will be able to offer and profit from dual and external credits.

First of all, the public education system is accountable to the public. Non-profit organizations, private organizations and individuals who will provide external credits may not be accountable to publicly elected trustees. A school board is accountable to trustees and the public.

I work for the Hamilton-Wentworth District School Board. ABC etc. stands for Adult-Based Continuing Edu-

cation Training Corp. This is a non-profit corporation that currently offers a wide variety of educational services and products. Employees of the HWDSB work for ABC etc. I am concerned that ABC etc. could be in a position to generate revenue through dual and external credits. ABC etc. already charges for tutoring high school students and offering an adult skills improvement general education diploma preparation course. I'm concerned that with HWDSB employees working for ABC etc., students may be directed to take dual and external credits through ABC etc. Money that would have stayed in the public school board will leave with the students. Once it's given to a non-profit corporation, that money is more difficult to trace and is more difficult to be held accountable for than if it's given to the school board. If the Hamilton-Wentworth District School Board currently receives \$1,200 per course per student, and a non-profit organization is able to offer that course at a reduced amount online, that non-profit organization stands to make money. ABC etc. may be allowed to charge students, in addition, and make more money.

Secondly, the quality of instruction will suffer under Bill 52. Non-profit organizations such as ABC etc. will not be under obligation to hire certified teachers. Even if they do hire certified teachers, ABC etc. and such non-profit organizations may not have to honour the school board's contractual obligations. Class sizes and workloads could be greater for such teachers. With fewer teaching positions available in the public system potentially, because over one quarter of the 30 credits required to graduate could be mandated to dual and external credits, new teachers may be forced to work for other organizations at lower wages with poorer benefits, creating greater stress for them.

Thirdly, quality of curriculum will likely suffer. Why would students choose one external provider over another? They may offer incentives to choose them. For example, they may offer shortened credits with fewer assignments and easier evaluations. All dual and external credit providers may start competing, potentially watering down credit criteria. Other boards, realizing that reduced student rolls also reduce revenue, may also either lead or create their own non-profit corporations to compete against colleges, universities and other dual and external credit providers. There's great potential for less money to go to students and teachers and more money to go to board or other administration. Non-profit corporations can generate large salaries for their employees. Currently, public servants earning more than \$100,000 annually must be identified. Will the salaries of employees of non-profit corporations and individuals who are allowed to offer external credit have to be made public? What is to stop private corporations from offering external credits?

I'm concerned about adequate checks and balances against individuals, non-profit corporations and post-secondary institutions profiting from Bill 52 at the expense of students, and I see great potential for problems.

Bill 52, with its four to eight dual and external credits, will herald in a voucher-type system that will undermine

the funding principles of public education, the principles that make me proud to be a teacher. As with other privatized services such as health care, administration will benefit at the expense of others in the system.

Bill 52 isn't needed. It doesn't address the issues that are of concern, and it's not a balm for an ailing public system.

1040

The Chair: Thank you very much. We should have time for a question from the government side.

Mr. McMeekin: Thanks very much for your presentation. Like you, I'm concerned, and I believe our government is concerned, about the quality of instruction and the need for checks and balances. I just want to let you know this. That's why the Student Success Commission has gathered stakeholder groups, including virtually all of the major teacher associations, to actually help us with the task of hanging the fruit on the foundational branches, the tree we're trying to build through this legislation. While the thrust is to have our most valuable resource, namely, our young people, learning longer, we also want them learning something that is valuable, and we want to work out those connections. I wanted first of all to provide you that bit of assurance. We're doing a lot of really good work there. Your associations are doing a lot of really good work—the stakeholders.

You said you're with the Hamilton-Wentworth District School Board. I know you've got a very progressive director of education there, Dr. Spence, doing some exciting outreach-partnership types of things. Has the Hamilton-Wentworth board, to the best of your knowledge, taken a position on Bill 52?

Mr. Bruce: I don't know.

Mr. McMeekin: You don't know that. Are you having conversations with your own school board about their perspective of the potential impact of Bill 52?

Mr. Bruce: From my perspective as an individual teacher within a school, I've had discussions with administration, but not beyond that. They're still coming up to speed on it.

Mr. McMeekin: Okay. Thanks very much.

The Chair: Thank you very much for having come in this morning and for giving us your deputation.

Ontario Secondary School Teachers' Federation, district 23: Sherry Mancuso, Kelly Morin-Currie. Are you in the room? No. Mr. Norm Uhrig for Sara Waite? No. Is Cynthia Dann-Beardsley in the room? No. Toronto Parent Network, Cathy Dandy? No. Is Chantal Mancini in the room? No.

RYAN SCOTT

The Chair: Ryan Scott? Okay. Ryan, have a seat. Thank you for coming in this morning. Thanks for being early. If you've been here a little while, you get the general procedure. You have 10 minutes for your deputation. If you leave any time remaining, it will be divided among the parties for questions, depending on

who's next in the rotation. Please begin by stating your name for the purposes of Hansard, and then proceed.

Mr. Ryan Scott: My name is Ryan Scott. I'm a secondary school teacher from the Hamilton-Wentworth District School Board at Ancaster High School. I came here to speak to the standing committee today to voice the concerns I have with Bill 52.

I'm concerned that Bill 52 will negatively affect the educational opportunities provided to students. I'm concerned that Bill 52 will reduce the chances of young, trained, professional teachers of maintaining and achieving a permanent teaching position in Ontario. I'm most of all concerned that these negative impacts are caused for merely political gains, not actual tangible results that could equally be achieved through increases in funding to our already-working programs in place.

The proposed legislation amends the Education Act to include opportunities for what are described as equivalent learnings. The Education Act would now allow post-secondary institutions, which are not governed by the Education Act or subjected to the scrutiny of the Ministry of Education, nor its instructors subjected to the scrutiny and discipline of the Ontario College of Teachers, to award credits that will help a student fulfill the requirements of the Ontario secondary school diploma.

I have a number of concerns regarding the addition of colleges and universities to join publicly funded school systems in granting high school or secondary school credits. I'm concerned because the programming that will be put in place by universities and colleges doesn't logically seem to be geared towards the at-risk students, students who are in danger of dropping out of high school. Students who are in the university- or college-bound streams are not at significant risk of leaving school. It is the workplace students who are at risk of not achieving their credits, and I fail to see how colleges and universities will want to provide programming to students who are having difficulties adapting to the already academic streams provided by the public education system. Without legislating that the courses offered by colleges and universities be geared towards the applied, workplace-bound students, these students who seem to be the target of Bill 52 will be ignored by these institutions and what we will have left is either a voucher or a two-tier education system whereby those who will be able to afford these courses provided by colleges and universities will be able to supplement their secondary school diploma, but lower- and middle-class families that cannot provide their sons and daughters these opportunities will be left behind.

Another concern I have with regard to the inclusion of colleges and universities as providers of secondary school credits is that I fear that with these new relationships between students and institutions, there will be barriers for students who are unable to take these classes in actually reaching these institutions further on down the road. They will have difficulty gaining access to these institutions if there already are relationships in place between students who have paid for credits from these

institutions and if they are just applying as a recipient of their Ontario secondary school diploma.

Another concern that I have regarding Bill 52 is that it will cost myself as well as many other teachers new to the profession our livelihood. Bill 52 proposes, for post-secondary institutions; community, provincial and national youth groups; and any employer that provides training or valuable knowledge or work experience the ability to grant credits that would be put towards the Ontario secondary school diploma. There have been numbers that have been passed around that either four or up to eight credits, within a few years of the bill's proposed life, would be allowed to be applied towards the Ontario secondary school diplomas. As the previous presenter mentioned, that's 27% of credits that will be able to be outsourced to these institutions. That means that there will be 27% less need on the part of the public education system for teachers, support staff and facilities because of the reduction in student credits being offered.

Because of the speed at which Bill 52 is being implemented and the fact that all students, even those who are not in danger of leaving the secondary system, will be eligible to participate in these equivalent learnings, thereby reducing the need for certified teachers in this province, this government will have a new phrase to consider: the at-risk teacher. I, along with thousands of students, have recently graduated from the faculty of education in this province and have been fortunate enough to receive employment by the ministry and a school in this province within the first year of graduation. I have many friends and fellow students who weren't as fortunate. These students will have to seek meaningful employment either in the educational field in other provinces or at lower pay and reduced benefits through these bodies that aren't affiliated with the Ministry of Education.

I joined this profession because I wanted to empower young people to pursue their passions, as I have myself as a lifelong learner, and I feel that Bill 52 will allow people who do not share the same passion, the same interest in student success, to practise in the teaching profession. It will be an opportunity for people to gain access to funding in order to either subsidize their employment costs or just to make a profit. These letter-of-permission or letter-of-approval teachers will create a two-tier education system in this province. There will be teachers who are certified, who are trained and are able to handle a variety of problems that can occur in a classroom, and then there will be people who are purely in it for the funds that would normally go through the school boards.

For such a drastic restructuring of the public education system, I hope that there is a clear and logical argument being made in favour of those in favour of this restructuring. I, however, have yet to hear one clear, logical reason presented by this government as to why we need to open our public education system to private interests and, as a result, cost hundreds, if not thousands, of teachers—trained, energetic and young teachers—their jobs.

1050

The government has announced their student success initiative, where they're trying to raise graduation rates to 85%, yet they have not made the public aware of the data they used to determine this statistic. In doing research for my presentation here today, I came across a StatsCan labour force survey of Ontario citizens aged 20 to 24, where only 9.1%—and that's an average over the past three academic years—have dropped out. Their definition of students not having dropped out is that they're either in school or have received their OSSD. So it would seem to me that, according to this survey, the government has already reached its 85% success rate of granting students their OSSDs. If not, they're 5% above that before actually implementing these changes proposed in Bill 52. This also shows that there are programs in place for students who have left the secondary stream to re-enter it later on and, in their early 20s, get their secondary school education and become meaningfully employed in this province.

The Chair: Ryan, you've got about 90 seconds.

Mr. Scott: I will then conclude by thanking the standing committee for hearing my concerns today, and I welcome any questions that anyone would care to ask.

The Chair: In slightly less than that, Mr. Klees, have you got a question for Ryan Scott?

Mr. Klees: Not in under 30 seconds. I just want to thank you for your presentation. We're hopeful that the government is hearing you.

Mr. Scott: I am too.

Mr. Klees: We've heard that there isn't one teacher in the province of Ontario who supports this bill, and so we're going to be questioning the government as to why, with all of the stakeholders opposed to it, they continue to persist in moving this forward.

Mr. Scott: As I said in my introduction, I fear that the gains achieved by this bill will be purely political, and that no tangible results translating into student success can be achieved with this legislation.

The Chair: Thank you very much, Ryan.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION, DISTRICT 23
EDUCATIONAL SUPPORT STAFF

The Chair: Ontario Secondary School Teachers' Federation, District 23: Sherry Mancuso and Kelly Morin-Currie. Good morning and welcome. I think we all have your written submission. You'll have 20 minutes to give your oral submission. If you leave any time remaining, it will be distributed to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Mr. Marchese: Ten minutes.

The Chair: Ten minutes, yes. Did I say 20? I stand corrected. It's 10 minutes.

Interjection.

Ms. Kelly Morin-Currie: Yes, I could use 20.

Good morning. My name is Kelly Morin-Currie, and at some point you may see Sherry Mancuso sitting beside me. We've had difficulty getting in this morning with the traffic, and I apologize for being late. I'm the district officer for OSSTF district 23. Sherry Mancuso is the president of the educational support staff, the bargaining unit of OSSTF 23. We're pleased to be able to make this submission to the standing committee of the Legislature on Bill 52, the Learning to Age 18 Act. We are here on behalf of the ESS unit, our educational support staff, which represents more than 210 educational workers employed in the Brant Haldimand Norfolk Catholic District School Board as educational assistants, child and youth workers, school secretaries, board office personnel, computer technicians and library technicians.

Bill 52 clearly has ramifications for both the secondary school students and educational workers in our board. The bill allows for the introduction of widespread external credits by unspecified and unlimited providers of equivalent learning, much to our detriment. Our concerns revolve around the suitability of equivalent learning opportunities provided by non-board personnel, especially since the provision of equivalent learning opportunities, as you are no doubt aware, is already addressed in the document known as Ontario Secondary Schools, Grades 9-12: Program and Diploma Requirements, 1999.

As child and youth workers and educational assistants, we work with some of the most needy students in our school classrooms and other board learning locations. It is within the parameters of our jobs to assist teachers in the day-to-day delivery of regular and specially developed courses. We complement the teachers by providing one-on-one assistance and small-group intervention to allow teachers to spend significant periods of time with other students in our classes.

Bill 52's implications for our students are immense. We worry that our students and support staff may well be involved with equivalent learning providers who will not be able or will not be willing to ensure protection for our students afforded by the multitude of safeguards, such as the provincial legislation of the Safe Schools Act and the requirement for criminal background checks. These providers will have no legislated responsibility to communicate with parents, resulting in much-reduced access to the instructor for feedback regarding student progress, attendance and behaviour. Students and parents will not have the security afforded by the professional standards, scrutiny and discipline procedures of the Ontario College of Teachers.

We worry that our students may well be recipients of credits which will not be seen as equivalent learning by future employers and the general public. Just how valuable will Jenny's experience working with Sandy Landscaping be, for example, if her time in acquiring the equivalent learning consists mainly of cutting and trimming grass and spreading a sand and salt mixture on parking lots? Will she in fact be eligible for the equivalent learning of an environmental studies credit? Will Billy's experience as a 4-H club leader be equivalent to a

peer leadership credit? In our opinion, the answer is a resounding no.

As board office personnel or school secretaries, whose routines require contact with parents, involvement with school attendance and late records, and support for classroom teachers, we would feel uncomfortable administering work for outside equivalent learning providers which may be in contradiction to board policies and procedures. It raises many questions such as: Will we be involved in any administration of the drivers' licence provisions? Will these providers be bound by the various board policies with regard to special education, privacy and safe schools? Will an equivalent learning provider recognize that students are in need of the support or protection of board/ministry educational team support services?

For example, currently in our board we have an educational support team that includes speech pathologists, CYWs and EAs. This support team, in consultation with the teaching staff, assesses the needs of the student, and the best plan of care for that student will be developed and implemented with the appropriate support worker. Let's assume students are attending a course of study offered by an outside group or organization. The students are having difficulty with literacy or numeracy; perhaps a speech path is required. We know that if the student were part of the board, their needs would be provided by the best possible support team staff.

Also, in the Grand Erie board, for which we represent the support staff, the staff are credit recovery teachers. It's the Turning Point program, which is brand new; you've been very successful with this pilot project and these programs. There is a turning point attached to each one of our secondary schools taught by credit recovery teachers and supported by support staff. These students are able to go out into the community on co-op programs, they're employed, and they're earning an income through their employment while they're going to school. This is what you have in place now and it's very successful for these needy students and the students you're trying to consider within this bill. You have programs in place that are working well now.

As a computer or library technician, we will see the loss of equipment, materials and support for existing students as the grants associated with equivalent learning credits are deposited into the accounts of those providers. We scramble now to provide and maintain appropriate and up-to-date facilities. How will we be able to competently do our jobs as the funding base diminishes? Just because enrolment decreases, it does not mean the demand for our services diminishes; in fact, for support workers, it's quite the opposite.

Our board currently provides extensive learning opportunities for our students. Qualified secondary school teachers deliver and supervise co-operative education experiences. Students, depending on interest, have the opportunity to be involved in an OYAP pre-apprenticeship experience. Each school has credit recovery initiatives. We offer alternative education outside of the school buildings. Each school has a student success

teacher. Our board partners in a successful and appropriately designed dual credit program with the Grand Erie District School Board in co-operation with Fanshawe College, providing a school within a college recapture program—very successful. So successful, in fact, that we have two programs operating now in both of our colleges in the area.

OSSTF district 23 ESS has grave concerns with the nature of the equivalent learning program in Bill 52. We believe that appropriate equivalent learning opportunities are currently available and are being offered in many boards. Expanding and increasing the availability of equivalent learning opportunities is already possible under Ontario Secondary Schools, Grades 9-12: Program and Diploma Requirements. Therefore, Bill 52 is not necessary. Ongoing funding for successful pilot projects is needed.

The implementation of Bill 52 could lead to a devaluation of the Ontario secondary school diploma and the secondary school environment in Ontario. No amendments are possible which would adequately prevent the harm caused by the introduction of widespread equivalent learning credits by unspecified and unlimited providers of equivalent learning. The ESS bargaining unit of OSSTF district 23 recommends that Bill 52 be withdrawn.

1100

The Chair: Thank you very much. We'll have time for a question. Mr. Marchese.

Mr. Marchese: Thank you, Kelly. I agreed with your last statement: You can't modify the bill and it should be rejected.

I'm puzzled by the motives around this. I know that Mike Harris would have liked this bill, and to try to outdo that kind of politics by a Liberal administration is, I think, not very smart. You're almost helping them by saying, "Look, you are doing things that you can take credit for and expand," and you mention a number of things. You've got the credit recovery teachers; you've got youth apprenticeship programs; you've got the co-op programs; you've got SALEP, the supervised alternative learning programs; and the student success teachers that they can take credit for. They can say so many things about how great they are, and yet they're introducing a bill that doesn't have support from teachers and non-teaching staff. How could this promote peace and stability in the system? I just don't get it. Are you having any luck with anyone in terms of a sense of where this government is going with this bill?

Ms. Morin-Currie: I know that our representatives at OSSTF are dealing with the government on this issue.

Mr. Marchese: I'm sure they are. Any reaction in terms of what you think the government is going to do with this bill, or you don't know yet?

Ms. Morin-Currie: I don't know at the moment. But clearly, we need additional support staff in the schools. That is what's going to make the difference.

Mr. Marchese: Yes, especially the youth workers who deal with those at risk. We lost them under a Con-

servative regime, and instead of replacing these youth workers who deal with kids at risk, they're not there. I agree with you, absolutely.

Ms. Morin-Currie: Our board is also engaged in several new pilot projects for e-learning as well—the first pilot project in Ontario, which isn't in the material, but it's synchronized e-learning to address issues of needy students as well.

The Chair: Thank you very much for having come in this morning.

SARA WAITE

The Chair: Norm Uhrig. Is Norm Uhrig in the room? Good morning. If you've been here for a little while, you get the general procedure.

Mr. Norm Uhrig: I just came in.

The Chair: You did? All right. Well, it's not very hard. You have 10 minutes to do your deputation. If you leave any time remaining, it will go to the next party in the question rotation to ask you some questions. Please begin by stating your name for Hansard and then proceed.

Mr. Uhrig: My name's Norm Uhrig. I'm a teacher in the Hamilton-Wentworth District School Board. I'm here to represent Sara Waite, who unfortunately had to attend a funeral today, so she sends her regrets. I'll read her letter, which I think you have in front of you. It's her personal view of how Bill 52 will affect her and her classes.

"My name is Sara Waite, a physics teacher working out of Ancaster High Secondary School in Ancaster, Ontario. I am writing to express my concern over Bill 52's negative implications.

"Specifically, I believe that Bill 52 erodes curricular validity, reduces curricular opportunities and will ultimately work to lower the likelihood that outbound students will be lifelong learners.

"Ontario's recently renovated curriculum was redesigned so that graduating with an OSSD ensured recipients were prepared to become literate, functional, educated, involved citizens. Bill 52, then, works to deteriorate such a strong educational vision.

"Curricular demands require teachers who are certified, trained and passionate educators. When a parent entrusts me with their child's educational upbringing, they do so knowing that my presence in the classroom required both academic and educational training. Likewise, as with most teachers, I have worked to continually upgrade my educational skill set to permit me to better educate said children.

"Unfortunately, Bill 52's equivalent credit structure undermines curricular validity, and thus the public's trust, by permitting uncertified employers to recommend applicable credits. Without an established, audited curriculum the content such providers would impart would be of questionable—and certainly unverifiable—value. Likewise, individual organizations operating without guidance or curriculum could succumb to overly spe-

cified, non-applicable skill sets that work to increase the workplace's goals; currently, education is aimed at increasing society's goals.

"As a teacher in Ontario's public education system, I firmly believe in the right of every student to have access to an equitable, valued, rigorous education based on an accepted curriculum delivered by certified, experienced and passionate teachers. Unfortunately, Bill 52's introduction of dual-credits courses eliminates such trust. No longer will students and parents be able to rest assured that their son or daughter is receiving sanctioned, supported and tested curriculum. No longer will they be able to view our public education system as being free from privatization and two-tiered systems. I cannot accept that a public and publicly funded education system can adopt a program that would implement a fee structure. Equality, after all, is one of our education system's guiding principles.

"Moreover, through Bill 52's ability to outsource credit recommendation to uncertified providers, students may find that their current course options are eliminated due to reduced funding and physical enrolment. The value of a diverse education is evident in the OSSD's current compulsory and optional requirements. That is, students are encouraged and required to explore a variety of academic and application options, whether the area is music or welding.

"Unfortunately, Bill 52 would erode such optional courses at a time when a global education is needed more than ever before. If students are able to confine themselves to areas of current interest, then said students might miss the opportunity that our current OSSD demands—that is, diversified educational opportunities. After all, the expectation that a student can reasonably map their career path at 16 is unrealistic; more to the point, should they have the authority to do so? Our current curriculum is designed to encourage students to explore options they otherwise would not; Bill 52's revised vision limits such choice.

"As such, I urge you to exercise your power and prevent the passage of Bill 52."

The Chair: Thank you very much for your deputation. We should have a few minutes for questions.

Mr. McMeekin: Norm, thanks for coming out and sharing this. It's no accident that we've got a lot of people from Hamilton and Ancaster here today, I can assure you. We were oversubscribed and had to make some choices around who we heard from. So I'm pleased you're here. I wonder if you would take the time to communicate back to Sara my appreciation for her taking the time to write the brief. It's very clear, very specific and, in that context, helpful.

I would just note, Norm, as I have with a couple of other presenters, that the articulated concern, that the bill isn't as "detailed" as it needs to be, is perhaps justifiable, and there's a reason for that. The Student Success Commission, which is incorporating a lot of partners around the table, is meeting to help define, spell out, some of the regulations, some of the linkages, some of the guarantees we're going to need around the integrity of the curri-

culum and what have you. So I just want to make that observation en passant and invite you to communicate that back as well, and perhaps communicate on that. We have a Student Success Commission. We have a curriculum group that's meeting. We have a number of tables that we're gathering stakeholders at. They're doing a lot of very good work. Is that the kind of approach you want your government taking, sitting down and talking to stakeholders about their concerns and trying to articulate those concerns through regulation?

Mr. Uhrig: I would certainly like to see education taught by people who are certified and qualified. Also, I would hate to see us turn to a voucher system—

Mr. McMeekin: I agree.

Mr. Uhrig: —as suggested by a previous government. That kind of a thing devalues the school, because you know yourself that once you reach a critical mass, once that mass is below that, there are no longer options available, the options are gone. So the students who would be able to get their art, get their music, get the welding courses and the shop courses, they will be gone because they can't offer them.

1110

Mr. McMeekin: Norm, let me just give you assurance that it's not the government's intent to move to a voucher system. We understand the importance of highly qualified, trained educational workers who can team with the government and, in appropriate ways, the community, to provide pathways to employment and educational opportunities for kids, and it excludes vouchers.

Mr. Uhrig: Yes, but it becomes a voucher. It may not be called a voucher, but when it's going outside to an employer that's going to be offering a credit—maybe it's through the Minister of Education. As it is right now, credits are recommended by teachers, and it is principals who give the credits, who bestow those credits, because there is a curriculum and there are checks and balances. Right now, we have co-op teachers who are out with our students, and they're certainly able to see what the students are learning. They're also getting the 110 hours of the course, where dual credits would be eliminating that sort of thing.

Mr. McMeekin: Co-op's working well?

Mr. Uhrig: Co-op is working well. Actually, in Hamilton now we have our regular co-op plus a home building course going on, as well as a militia co-op that is just going to be starting next semester. We also have a co-op which takes place at Chedoke Hospital in Hamilton.

The Chair: On that note, I will have to say thank you very much for your deputation and for taking the time to come in this morning.

Mr. Uhrig: Thanks very much.

CYNTHIA DANN-BEARDSLEY

The Chair: Cynthia Dann-Beardsley, please. Is Cynthia Dann-Beardsley in the room? Yes, you are. Good morning. Have a seat, and welcome. You'll have 10 minutes to give your presentation this morning. If you

leave any part of it remaining, it will go to the next party in the rotation for a question. Please begin by stating your name for Hansard and then proceed.

Ms. Cynthia Dann-Beardsley: Good morning. My name is Cynthia Dann hyphen Beardsley; I have to say the hyphen so that you know it belongs with my last name. I am a parent in Toronto. I live in Toronto and I have three children, one in university and two in high school. My children and I—I as a growing citizen, as a young girl—have all attended public school in Toronto. I'm here today to congratulate the Liberal government for recognizing that it has a public responsibility to address the chaos and destruction created by the Harris administration, a government that deliberately created a crisis in education.

Almost overnight, education became a special interest arena, one that was supposedly ruled by touchy-feely adults who, in their efforts to give children what they needed to succeed, burned up hard-earned public money faster than popcorn burns in a microwave, money that was spent on options and frills like music and swimming pools and sports. Children, parents and taxpayers were tossed about as the new mindset, complete with a matching funding formula, changed—or tried to change—almost everything about our local schools. My children and their friends, my family and my community all felt overwhelmed and exhausted from the lack of transparency and accountability that ruled during those Conservative years. We hung on, supporting the notion of public education as programs and services were torn out of schools, deleted from budgets and mocked by decision-makers who felt that schools were about as extravagant as a can of Reddi-wip to a starving nation.

Now we all gasp as youth violence escalates. It is no longer safe to go downtown to buy shoes at a Boxing Day sale. The alleged gunman in that case was in the age range that should always be referred to as "Harris's children." In fact, I would go so far as to say that almost every incident of youth violence involves Harris's children. These are the ones, the peer group of my daughters, who came up through public education without the proper funding of librarians and libraries, field trips, musical instruments, swimming pools, basketballs, outdoor ed, social workers, truancy officers, attendance counsellors and juicy resources more creative than a textbook.

In compromising—indeed, roadblocking—the academic success of children, the government also compromised the social and economic success of Ontario. It is my understanding that 93% of the workforce comes from a public education. I am still utterly bemused that any decision-maker in any capacity would want to give the future breadwinners of this province an inferior education, and inferior it will be if children fail to stay in school and acquire the knowledge, skills and decision-making abilities that a high school diploma offers them. However, it will take more than an amendment to the Education Act, more than Bill 52 to keep them there.

There is great value in constantly keeping this bill in the news. Taxpayers must be educated or reminded that

education issues are everyone's issues. We are raising the next generation of voters and taxpayers, and the decisions they make and how they vote will affect every single one of us. The government can say that everyone under the age of 18 must be in school, but how will this be enforced? It is difficult enough to get one's teenagers to turn off the computer and come to dinner. What about getting disenfranchised, discouraged, disengaged teens aged 16, 17 and 18 to class every day? How will the government be accountable for ensuring that they ever get to class or get there often enough to get that high school diploma?

If we were able to ask dropouts why they had dropped out, we would likely get as many answers as there were individuals. One answer I'm sure we would not get, or certainly very rarely, is, "I dropped out because I felt like I belonged." Whether it is a club, a committee, a community or a course, people in general show up if they feel that they are fundamental to the success of that group or project, if they feel that someone is counting on them or if they really like it. One out of that group of three is usually enough to keep individual attendance rates high.

Children must be offered a wide variety of programs from the very start of elementary school, programs that instill school pride, team spirit, individual contributions, and a strong sense of satisfaction and success that comes from sequential learning. Children love their school because their cross-country team went to the west city semifinals, or they sang at the Kiwanis festival, or they had a science fair, or they hosted a swim meet. They love being active participants, even if that activity means standing at the sidelines and cheering their hearts out. These kinds of programs all grow out of the ministry-mandated curriculum. Whether schools are delivering the curriculum or whether there are the funds to deliver the outcomes is another question, but it is a question that determines how well a child is engaged in school life.

Convincing a pimply-faced boy in grade 7 or grade 9 to play the viola is a very hard sell. If his only experience with music in the early grades is to clap along with a boom box or to stand up and wriggle and karaoke-sing to the Lion King, the chances of getting him into the school orchestra are quite small. It's the same for sports. If there's no equipment, no teams and no sequential skill development, how will young girls and boys feel the thrill of shouting "yes" when they master something? Self-esteem is built on "I can," not "I am." "I am" is merely narcissism, and narcissism is not what I want for the foundation of my family, my community or my country.

Minister Wynne recently announced new plans to introduce respect and responsibility into the curriculum. What can teach respect and responsibility better than singing in a choir, playing in a band, running in a four-by-four relay or playing on a soccer team?

If you look at Hungary, the top graduates from teachers' college go to teach kindergarten, because that country believes the beginning is the most important. When you fund from the beginning, you fund success.

Children who learn to join and to contribute go on to do the same in high school. They value their school, their classmates, their teammates and their teachers. Studies from the United States show that schools that have established and supported arts and sports programs have lower dropout rates and lower delinquency rates than schools that don't. Surely that fact must say something about what keeps students in schools.

One of the predictors of staying in school until graduation is whether or not students establish a meaningful relationship with a teacher. Who are constant teachers in children's lives? The music teacher, the drama teacher, the phys ed teacher, the librarian, the guidance counsellor and the youth worker. The very woman who cuts my hair dropped out of school the year that her drama teacher went on maternity leave and was not replaced. The program died, and so did the school spirit and the self-esteem of this young woman. Even good students will hit a point in their high school careers where school just seems boring, or their social life is low, or they are having an identity crisis. If they are part of the orchestra or on the swim team, they will still be coming to school, if nothing else but to be with their friends and see the teacher.

1120

I came from a family who had little to offer me when it came to music. I said "Devorak" when I saw the name Dvořák. I didn't know what a cello was or even how to spell it, and I had never been to the Toronto Symphony. But I went to school in Toronto, where you had to take music, taught by qualified, certified teachers. I played music that sounded like a million bucks and made me feel worth 10 times that \$1 million. All this, as my gambler father left the family for good.

I went to university, something that my parents had never done, and ended up having a wonderful career, thanks to public education. I've written for the Financial Post and worked for the CBC because the Toronto Board of Education provided me with a juicy education beyond the textbooks.

For those of you who like quantifiable numbers, 47% of the executives on the Fortune 500 list studied music, compared to the national average of 17% or 18%.

In closing, I ask that you look at children from the very beginning of their school lives. Give them quality, sequential, fully funded programs in music, drama and sports, taught by teacher specialists during the regular classroom day; give them that from day one. Continue to fund and support programs, teachers and resources right through to grade 12, and you will give students a reason to be in school and you will give them living proof that putting their nose to the grindstone pays off, and you will give them a reason to be with friends. The health, safety and education of these children all depend on you, and the economic and social future of Ontario depends on them.

The Chair: That does conclude the time that we have for you this morning. Thank you for coming in and for making your deputation.

The Toronto Parent Network: Cathy Dandy. Is Cathy Dandy in the room? Chantal Mancini.

LEISHA DAWSON

The Chair: Please be seated. Make yourself comfortable. You'll have 10 minutes for your deputation this morning. If you leave any time remaining, it will go to the parties, in rotation. Begin by stating your name for Hansard and then proceed.

Ms. Chantal Mancini: My name is Chantal Mancini. I want to thank you for hearing my concerns today. I am reading a letter by Leisha Dawson, whom I'm actually substituting for. I'm going to read you her letter.

"I have always been a proud Canadian—a proud citizen of Ontario. Today, I do not feel proud. I feel fear and anxiety. Bill 52 is going to hinder the future success of our youth. Bill 52 is the outsourcing of public education because of how it will affect the quality of teaching, quality of learning, quality of living and the quality of values.

"I believe strongly in the quality of teaching. While completing my bachelor of education, student teachers were told to see teaching as part science and part art. The science is the knowledge and the art is the skill and enthusiasm that you bring to the classroom. It is a challenge that teachers achieve every day. This cannot be said about the dual and external credit providers. These providers are not Ontario College of Teachers certified and are not knowledgeable on the Ontario secondary school curriculum. They are not knowledgeable on how to address the concerns of special-needs students and are not subject to the teacher performance appraisal process. The OCT's standards of practice and the ethical standards will not apply to these providers. Nor will these providers be required to provide criminal background checks or legislated to communicate with parents. In order to become a professional teacher, I agreed to these high standards and employment terms. Moreover, I am strongly encouraged to improve myself with additional qualification courses. These providers are under no such obligation or requirement to any of this. We don't need to outsource public education to those who do not have the necessary qualifications, the commitment to teaching adolescents and the desire for self-improvement through additional qualification courses. These providers will mar the quality of teaching.

"Unfortunately, Bill 52's potential providers will deface the quality of learning. Every day I witness professionals in diverse roles assisting young people in graduating from secondary school. This cannot be said about the dual and external credit providers. These dual and external credit courses are allowed to be merely 45-65 hours in duration versus the intense 110 hours that are in the OSS courses. Unlike the OSS courses, the dual and external credit courses do not state clearly the high standards in curriculum, evaluation, accessibility and safety that the citizens of Ontario expect from their public education. The dual and external credit courses will devas-

tate the much-needed technology courses. During my training at Lakehead University, I took the Initiative to College, Trades and Workplace course. It was in this class that I heard the concerns of the tradespeople in Ontario. In the past 20 years, the enrolment in the trades has been dismal at best. The trade representatives wanted the Ministry of Education and school boards to invest more money into OSS technology courses. They wanted students to get the necessary hours and training required in order to obtain an apprenticeship position. They wanted the students to gain experience on the latest technology that would make them less of a risk to the tradesperson. These dual and external credit courses will remove the legitimacy of the OSS technology courses. The OSS technology courses have certified technology teachers who are able to give the students necessary hours in training so they can obtain an apprenticeship position. These dual and external credit courses will only diminish the trades in the public's mind and force the tradespeople to question the validity and legitimacy of all OSS technology courses, which are vital to all students. These OSS technology courses are especially important to at-risk students who struggle in the compulsory courses.

"The pursuit of a better future should not blemish the quality of life. The dual and external credit courses will force families to allocate resources from other areas in order to upgrade their children's education. Low-income families will not be able to send their children to higher education because the additional costs will be too great for them. They will not be able to pay the high prices that the private education providers will demand, nor will the families be able to pay for the potential user fees that will be demanded. Instead of giving their children enriching experiences at museums, art galleries, theatres, nature conservation areas and sporting events, they will be forced to spend valuable resources on courses that were once offered by the boards. The quality of life will be sullied. More young people will be discouraged from experiencing our culturally rich history.

"Bill 52 will subvert the quality of values. Indentured servitude has been deemed unlawful in Canada for a long time, yet under Bill 52, indentured servitude will gain legitimacy and funding by the Ministry of Education. Many students who are developing a strong work ethic will be undermined by the dual and external credit courses. It will no longer be beneficial to hire students in entry-level positions. Employing students will be a financial liability that potential providers can do without. The dual and external credit courses will leave students vulnerable and unemployed. The Ministry of Education will be teaching students that loyalty, determination and a strong work ethic are not valued by society. Along with a strong work ethic, adolescents need to develop the value of learning for life. The times of working for the same employer in the same position are over. The younger generation needs to be able to adapt to the ever-changing environment. It is an expectation that society has for its labour force. It is improbable that the potential providers

will be able to teach this survival skill to adolescents. These potential providers enshrine the notion that it is acceptable to stop learning once they reach a certain age. This notion will doom the future generations to poverty and hardship. It is only under the tutelage of professional lifelong learners that young people will develop this ability. Teachers are professional lifelong learners. We strive to learn new skills and knowledge that we can bring into the classroom. As lifelong learners, we are role models who continually strive to improve professionally and personally.

"I am a new breed of teacher. Upon graduating from university in 1991, I entered and remained in the workforce in a variety of capacities. While in the workforce, I realized that I was meant to be a secondary school teacher. In order to achieve my goal, I worked a full-time job during the day and completed a full-time university course load in the evenings for two years. I did this because I wanted to be a teacher. Presently, I am teaching part time as a long-term occasional teacher, as well as working two other part-time positions. Every day I look for ways to help my students make connections to the material I am teaching. I know I am a strong, positive role model. I have metamorphosed into a teacher and it is at this point that I am filled with fear and anxiety. The reality is that my dream of being a teacher has changed into a nightmare of unemployment. I recognize that if Bill 52 goes through, then I will be one of the first teachers to be unemployed. Students will be encouraged to get their education from uncertified and unqualified providers. They will no longer be allowed to return and upgrade through the boards once they reach 18 years of age or upon graduation. Postgraduate students who need more time to develop and succeed in the future will no longer be in my classroom. Optional courses that can keep at-risk students in school will face reduced funding. The teaching of mainly compulsory courses will mean less teaching positions for new teachers like me. My options are limited. I will be forced to leave the teaching profession, or remain in the teaching profession but leave the province or country.

"Please kill Bill 52. It is not necessary. Boards already have a lot of local programs that address the concerns for at-risk students. Do not penalize the future generations by outsourcing public education.

"Yours truly,

"Leisha Dawson."

Thank you.

1130

The Chair: Thank you. We should have time for a question. Mr. Klees.

Mr. Klees: Ms. Mancini, it's difficult to ask you questions about the content of this letter, of course. Could I ask you, are you a teacher?

Ms. Mancini: I am.

Mr. Klees: So, if you don't mind, let me just direct a question to you. Do you share the sentiments of this letter and the need to kill Bill 52?

Ms. Mancini: Yes, I do.

Mr. Klees: Okay. This is now the third day of public hearings on this bill. Except for the last presenter, who said she supports the bill—I wish we had had time to question her as to why—there has not been a presenter who has come forward to say they support the bill. We heard today that there isn't a teacher in the province of Ontario who supports the bill. Do you have any musings about why this government would bring this bill forward when stakeholders in education so strongly oppose every aspect of it? What could be the motivation?

Ms. Mancini: Personally, I believe that the values are shifting. You've got corporate values and privatization infiltrating all aspects of our society. I think that's where it's going. I fear that corporate values will not view students as persons but as human resources only. I find that incredibly frightening. I think it's part of the move to privatization that the Liberal government has shown in other areas, such as health care.

Mr. Klees: Thank you.

The Chair: Thank you very much for coming in and for taking the time to make your deputation this morning.

One more time, we'll try Toronto Parent Network, Cathy Dandy? All right.

CARMELO IACHELLI

The Chair: Carmelo Iachelli? Good morning and welcome. You have 10 minutes to make your deputation this morning. If you leave any time remaining, it will go to questions in rotation. Please begin by stating your name for Hansard and proceed.

Mr. Carmelo Iachelli: My full name is Carmelo Iachelli. I would just like to thank you for giving me the opportunity to voice my concerns today over Bill 52. I am currently a high school teacher with the Hamilton-Wentworth District School Board, and I appear before you today as a concerned teacher and parent, one with a vested interest in the future of public education in this province. I apologize now if what I say is redundant or repetitive. However, perhaps there is a message to be gained by this.

It is my belief that Bill 52 and the introduction of dual and external credits with unspecified and unlimited providers of equivalent learning will undermine the OSSD, providing a number of concerns, including the safety and well-being of our students.

I have been a certified English and drama teacher in Ontario for close to 10 years. Coming from a theatre background, my true passion is, of course, drama, and I have spent many years trying to build the program in my school and in the community. Since starting my career teaching the old curriculum, I have seen first-hand the negative effects of the new curriculum on the school boards, the administrators, the teachers and, most importantly, the students. Optional courses like dramatic arts, music, dance, art and technology have all been victims of the numbers game, as students try to fit five years of secondary education into four. Non-required

subjects are no longer an option for the fast-tracking student who wants to graduate before their 17th birthday.

Bill 52 and the mandatory inclusion of dual/external credit courses would further reduce the number of options available for students in the future and, in my mind, apply even more pressure to find a career path in an ultra-competitive post-secondary world.

As seen with the education model from British Columbia, most dual credits will be offered in the fine arts, such as music, dance and drama, once again stripping away another layer from these fragile disciplines. Speaking as one who entered teaching from the world of professional theatre, I can only say that this can be a dangerous move. As the coordinator of the Sears Ontario Drama Festival in our region, every year it is my responsibility to hire an adjudicator who must publicly and privately critique and award students for their efforts on stage. After years of experience, I am now keenly aware of the benefits of an adjudicator who comes from a teaching background. Understanding and sensitivity towards the students' needs are always a priority for those with classroom experience, while this is not necessarily the case for qualified instructors from the professional field, where honest and, at times, harsh criticism is the desired choice.

Finally, does the offering of dual credits in the fine arts really serve the interests of those students who are at high risk of not achieving their OSSD? In my own experience, I would say that most students interested in the fine arts have an extremely high graduation rate. By extending dual credits to these relatively successful students, are we not opening the door to voucher-style education?

In closing, Bill 52 makes very few provisions for issues such as the ones I mention to you today, and I am sure there are countless others you have heard in numerous presentations to the standing committee. The negative effects of such an open-ended and ambiguous piece of legislation could be catastrophic to an already vulnerable public system. We do not need this bill to ensure student success. Let our province's teachers do the teaching and, in doing so, provide our students with a well-balanced curriculum filled with choice and handled with sensitivity. Thank you.

The Chair: And thank you for a very tight and concise brief. Mr. Marchese, you've been left a generous amount of time for questions.

Mr. Marchese: Thank you, Carmelo. I agree with your statement. I have a few questions. You heard one of the parents, Cynthia Dann?

Mr. Iachelli: Yes, I was here.

Mr. Marchese: I tend to agree with what she said, although I disagree with her in terms of her support of the bill, because I don't think the bill—

Mr. Iachelli: I didn't hear that.

Mr. Marchese: Okay. In the beginning, she said she supported the bill, and then she talked about other things we need in the system that we're not getting, quite frankly. I agree with her that we need more art teachers. We've seen a diminishing number of art teachers in our

school system. It started with these guys over here to my right and it continues with the Liberals. We are seeing a reduction in the music programs—an incredible reduction under the Tories, and of late, I believe the government has increased that number a little bit so they can claim they've increased the number. But in terms of where we were compared to where we are today, there's a decreasing number of music teachers, a decreasing number of teacher-librarians, a decreasing number of physical education teachers. In fact, I just can't believe that we're requiring kids to do 20 minutes of jumping up and down; we don't have physical education teachers. We need more guidance teachers. We need youth workers. You heard Kelly Morin talk about the need for youth workers to help kids at risk. We need more special education programs, not fewer. We need more English-as-a-second-language. If we had all that, it would probably help these kids to stay in school. Don't you agree with that?

Mr. Iachelli: Yes. Being a teacher of 10 years, I have seen the change from the new curriculum to this, and I don't see it getting any better. I see this as another strip to the public system, as is happening with health care as well. Perhaps that's a bigger question.

Mr. Marchese: It is, and a different one.

The other teachers have talked about the fact that the government already provides alternative programming within the system. They talked about the youth apprentice program, the supervised alternative learning programs, co-operative programs, the student success teachers that they now have added. All sorts of teachers' federations are talking about the fact that these supervised programs are taking place in the current system. Why can't we be expanding those opportunities instead of creating yet another model that potentially privatizes education to every Tom, Dick, Harry and Mary who wants to provide a program—unsupervised? We don't know who's going to be doing it, we don't know who's going to be writing the curriculum and we don't know where they're going to be. Why go that route and cause the kind of damage that you're suggesting, which I agree with, instead of strengthening what we've got? Why can't we do that?

Mr. Iachelli: What would your suggestion be, Mr. Marchese?

Mr. Marchese: My suggestion to the government is that they should never have introduced this bill. They should have scrapped it. From the beginning, I said it was wrong. I attacked them even before 2003, when they made this promise. It was a dumb promise. That's one dumb promise that they should break instead of introducing it here today. The entire teaching profession is obviously opposed to it. I'm hoping the teachers are going to organize with their federations against this government until they remove it. Carmelo agrees.

The Chair: Was there a question in that?

Mr. Marchese: Carmelo was just looking for my comment, unless he's got any—

The Chair: Mr. Iachelli, you have the last word for the morning, so the floor is yours.

Mr. Iachelli: Oh, my gosh. Well, have a good lunch.

The Chair: Thank you very much. We stand adjourned until 3:30 or the end of routine proceedings.

The committee recessed from 1141 to 1535.

ASSOCIATION DES ENSEIGNANTES
ET DES ENSEIGNANTS
FRANCO-ONTARIENS,
UNITÉ NORD-EST CATHOLIQUE

The Chair: Good afternoon. This is the standing committee on the Legislative Assembly. We are here for public hearings on Bill 52, the Education Statute Law Amendment Act.

Our first deputation for this afternoon is AEFO, l'Association des enseignantes et des enseignants franco-ontariens, unité nord-est catholique : Ginette Lacroix-Gosselin, présidente. Bonjour. Bienvenue. Vous avez 10 minutes pour votre présentation. Veuillez commencer avec votre nom, et bonne chance.

M^{me} Ginette Lacroix-Gosselin: Merci. Je me présente : Ginette Lacroix-Gosselin, présidente de l'AEFO-nord-est catholique pour la région qui s'étend de New Liskeard à Hearst, en passant par Timmins, Cochrane et Kapuskasing.

Mes commentaires font suite aux préoccupations soulevées ce matin par mon collègue Jean-Guy La Prairie de l'AEFO-est publique et au mémoire présenté à ce même comité en août dernier. Je traiterai des élèves à risque, ainsi que des écoles francophones comme milieu de construction identitaire.

Vous allez le retrouver dans le document que mon collègue vous avait passé ce matin en page 2.

Plus qu'un lieu d'apprentissage, l'école se veut un milieu de vie pour les élèves. C'est d'autant plus vrai dans les écoles secondaires de langue française. Ces écoles offrent aux élèves vivant en milieu minoritaire des occasions privilégiées de socialiser en français avec leurs pairs et de participer à des activités parascolaires en français. L'école est aussi un outil de construction identitaire des jeunes francophones et un instrument de lutte contre l'assimilation.

Compte tenu du fait que l'Ontario ne compte que deux établissements collégiaux de langue française—l'un à Ottawa, l'autre à Sudbury—il sera difficile d'offrir des programmes d'apprentissage équivalent à double crédit en français et dans un milieu francophone dans certaines régions de la province. Si je prends ma région à Hearst, on est desservi par le Collège Boréal, mais on n'offre qu'un choix limité de cours qui sont souvent axés vers un métier. Dans notre coin, c'est l'industrie forestière. Alors, on ne veut pas limiter les choix pour nos élèves.

L'AEFO croit néanmoins qu'il est essentiel que les programmes d'apprentissage équivalent proposés par le gouvernement ne privent pas l'élève francophone de l'environnement de langue française dont il a besoin pour s'épanouir pleinement. Quand on sort les jeunes de leur milieu scolaire, on divise les forces de ce milieu. Le jeune est privé de son milieu culturel et identitaire. Puis,

l'école à son tour est privée d'un jeune qui peut être un catalyseur.

L'AEFO recommande que les programmes d'apprentissage équivalent offerts aux élèves des écoles secondaires de langue française soient dispensés en français dans un milieu francophone pour répondre ainsi à la mission de l'école de langue française.

Cibler les élèves à risque : l'AEFO est d'avis que, pour atteindre l'objectif d'un taux de diplomation de 85 % d'ici 2010-2011, les initiatives du gouvernement en matière d'apprentissage équivalent doivent cibler de façon particulière les élèves à risque.

Certaines initiatives qui font présentement l'objet de discussion au sein du ministère de l'Éducation sont fort intéressantes. Plusieurs élèves pourraient certainement profiter d'un programme de double reconnaissance des crédits. Toutefois, selon l'AEFO, il n'est pas prouvé que cette approche augmentera le taux de diplomation. Au contraire, la majorité des recherches démontrent que ce sont les élèves qui ne sont pas à risque qui bénéficient d'initiatives de ce genre.

Or, en offrant à des élèves qui sont déjà en mesure de compléter leur DÉSO de façon traditionnelle la possibilité d'obtenir des crédits ailleurs qu'à l'école secondaire qu'ils fréquentent, on risque de mettre en jeu la viabilité même de certains programmes offerts par l'école. De plus, ces élèves pourraient plus difficilement participer à la vie scolaire, ce qui aurait un impact sur leur épanouissement personnel et sur le développement de leur identité comme francophones. La gamme des activités parascolaires offertes à l'école pourrait aussi s'en trouver réduite.

Il faut également prévoir que les élèves à risque qui suivraient des cours d'apprentissage équivalent puissent continuer de recevoir les services auxquels ils ont droit en vertu de la Loi sur l'éducation. Ainsi, plusieurs élèves à risque font l'objet de programmes d'études individualisés—les PEI—lesquels sont gérés par des enseignantes et des enseignants qualifiés. Les élèves à risque qui suivraient des cours d'apprentissage équivalent à l'extérieur de l'école doivent pouvoir continuer à bénéficier de l'encadrement et des accommodements prévus dans leur PEI.

L'AEFO est d'avis que les démarches entreprises pour adapter les programmes d'études actuels aux besoins de groupes particuliers d'élèves peuvent réduire le taux de décrochage et ainsi augmenter le taux de diplomation. À titre d'exemple, je vous cite le développement de cours à l'échelon local et la révision du programme d'études de mathématiques appliquées en neuvième année. Les résultats des tests standardisés de mathématiques de neuvième année de l'an dernier révèlent une augmentation encourageante du taux de réussite des élèves des cours appliqués. Alors, il faudrait peut-être modifier ce qui existe déjà puisque ça fonctionne.

L'AEFO recommande donc que les programmes d'apprentissage équivalent proposés dans le projet de loi 52 soient conçus pour cibler spécifiquement les élèves à risque.

L'AEFO recommande que les élèves à risque qui participent à un programme d'apprentissage équivalent continuent de recevoir l'ensemble des services auxquels ils ont droit en vertu de la Loi sur l'éducation.

L'AEFO recommande que le gouvernement consulte les enseignantes et les enseignants des écoles secondaires de langue française pour identifier les moyens appropriés d'augmenter le taux de diplomation des élèves qui fréquentent ces écoles.

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L'AEFO recommande aussi qu'on consacre des ressources supplémentaires pour accélérer la révision des programmes d'études actuels et pour rédiger des cours à l'échelon local et de nouveaux cours conçus spécifiquement pour les élèves francophones.

Ça m'amène maintenant à la partie sur les conséquences financières aux pages 5 et 6 de votre document.

On ne connaît pas pour l'instant les coûts associés à l'apprentissage équivalent, mais l'AEFO a des inquiétudes à cet égard.

À l'heure actuelle, le gouvernement verse aux conseils scolaires plus de 1 000 \$ pour chaque crédit-élève au secondaire. Qu'arrivera-t-il à ces sommes si l'élève complète plusieurs crédits à l'extérieur de son école secondaire?

Si le gouvernement n'assure pas que ces sommes restent aux conseils scolaires, ceux-ci se verront privés de millions de dollars et l'ensemble de la population étudiante en subira les conséquences. La situation des écoles de langue française est d'autant plus fragile que l'enseignement y coûte plus cher et que le gouvernement actuel vient tout juste de commencer à corriger les iniquités du passé en matière de financement de l'éducation en français. Nous craignons donc un recul en matière de financement de nos écoles.

Il faut également prévoir que les familles d'élèves qui suivront des cours d'apprentissage équivalent auront à déboursier des sommes supplémentaires, que ce soit pour les frais de déplacement chez l'employeur, à l'établissement postsecondaire, ou pour du matériel scolaire. Les établissements postsecondaires francophones et les employeurs francophones étant peu nombreux, en particulier dans certaines régions de la province, comme le nord de l'Ontario chez nous, les distances à parcourir seront plus grandes et les dépenses engagées le seront également.

En conclusion, l'AEFO est d'avis que le projet de loi 52 pourrait corriger certaines des lacunes actuelles de notre système d'éducation, notamment en offrant davantage d'options aux élèves qui risquent de quitter l'école sans avoir obtenu leur diplôme d'études secondaires.

L'AEFO croit toutefois que les initiatives reliées à l'apprentissage équivalent peuvent être mises en oeuvre sans modifier la Loi sur l'éducation, exception faite des modalités portant l'âge d'apprentissage obligatoire à 18 ans et celles modifiant d'autres lois pour le permis de conduire.

Ceci étant dit, que le gouvernement procède avec des initiatives reliées à l'apprentissage équivalent avec ou

sans projet de loi, nos préoccupations et nos recommandations demeurent les mêmes.

L'AEFO est d'avis que les initiatives proposées en matière d'apprentissage équivalent doivent viser de manière spécifique les élèves à risque pour ainsi augmenter le taux de diplomation sans drainer l'effectif des écoles secondaires.

Vous avez à la fin les huit recommandations que propose l'AEFO dans ce mémoire, celles qui ont été présentées aujourd'hui et qui s'ajoutent à celles déposées en août dernier.

Merci de l'attention que vous m'avez accordée.

The Chair: Merci beaucoup. Vous avez utilisé vos 10 minutes. Il n'y aura aucun temps pour les questions. Merci beaucoup pour votre présentation cet après-midi.

ONTARIO COLLEGE OF TEACHERS

CONSEIL DE L'ORDRE DES ENSEIGNANTES ET DES ENSEIGNANTS DE L'ONTARIO

The Chair: Our next deputation will be the Ontario College of Teachers. Marilyn Laframboise and Brian McGowan, welcome this afternoon. You have 10 minutes for your deputation. If there is any time remaining, it will go to the parties in rotation for a question to you. Please begin by stating your names for Hansard and then proceed.

M^{me} Marilyn Laframboise: Je m'appelle Marilyn Laframboise. Je suis enseignante, et présidente du conseil de l'Ordre des enseignantes et des enseignants de l'Ontario, l'organisme de réglementation de la profession enseignante de la province.

Le registraire et chef de la direction de l'ordre, Brian McGowan, m'accompagne aujourd'hui.

Je vous remercie de me donner l'occasion de vous parler des modifications proposées au projet de loi 52. Je vais vous exposer brièvement nos idées sur le projet de loi et la façon dont il touche aux attentes des élèves, des parents et du public en ce qui concerne la profession enseignante en Ontario.

Avec ses quelque 204 000 membres, l'ordre est l'organisme d'autoréglementation le plus important au Canada. La loi sur l'Ordre des enseignantes et des enseignants de l'Ontario, les règlements y afférents et les règlements administratifs de l'ordre décrivent ses domaines d'autorité et ses devoirs.

En vertu de la loi, nous avons l'obligation d'inscrire et de certifier les enseignantes et les enseignants et de traiter les questions de conduite professionnelle, de compétence et d'aptitude professionnelle de nos membres.

Nous avons également le devoir de veiller à ce que les enseignantes et enseignants respectent des normes d'exercice et de déontologie élevées avant même qu'ils n'entrent dans les classes et tout au long de leur carrière.

Through our regulation of the profession, we ensure that students receive instruction from qualified, certified

and competent teachers. It's precisely because of this mandate that we are here before you this afternoon.

Let us be clear: The college supports the general principles and objectives of Bill 52. We welcome initiatives that contribute to the success of all students.

Teachers, our members, know very well that conventional educational settings and curriculum do not work for all learners. That's why college members across the province work in alternative settings to help students overcome a wide range of learning challenges. Bill 52, as it is currently written, does not deal adequately with the issues of accountability and responsibility for educational programming.

The bill, which amends the Education Act and the Highway Traffic Act, hopes to raise the compulsory school attendance age from 16 to 18, or until graduation, by keeping students learning in classrooms or in approved out-of-school programs, including apprenticeships or co-operative education. These opportunities would fall outside the instruction otherwise provided by a school board and are described in the bill as equivalent learning.

The bill defines "equivalent learning" as a learning situation that falls outside the instruction traditionally provided by a board and for which a pupil's success can be reasonably evaluated, including but not limited to programs, courses of study or other activities offered by colleges, universities not governed by the act, community groups or through apprenticeships or job training. Students would be allowed to claim course credits for time spent in these equivalent learning situations.

The "including, but not limited to" phrase suggests that activities could be provided by people who are not college members. We believe that equivalent learning opportunities must be supervised by college members with specialized knowledge who are subject to our disciplinary oversight.

The college's obligation to the public generally, and to parents and students in particular, is to ensure that publicly funded education in this province is delivered by qualified, certified teachers. Otherwise, the college's mandate to protect the public interest is severely undermined. The bill refers only to "educator," without defining the term. Does that mean a certified teacher who is a college member? We think it must. A teacher, as defined by the Education Act, means a member of the Ontario College of Teachers.

The bill does not explicitly set out who may qualify as equivalent learning providers, how they will be chosen, monitored or assessed. It doesn't say how equivalent learning programs will be developed or assessed, nor does it say how or who will evaluate students. Important and substantive details are left for regulations not yet written to define. Further, we wonder what chance the college and other education stakeholders will have to comment on the content of the regulations as they affect the teaching profession.

Currently, the college requires the following from its members:

- that all applicants undergo criminal record checks;
- that out-of-province applicants have clean teaching records in other jurisdictions;
- that applicants be able to speak, read and write fluently in English or French; and
- that our members meet standards of practice and ethical standards.

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By law, the college keeps a public register of our members. Parents and employers can check the teaching qualifications and status of our 204,000 members at any time by visiting our website.

Finally, the college investigates and resolves complaints of professional misconduct, incompetence and incapacity against our members. We hold public hearings whenever warranted and publish decisions on our website and in our quarterly magazine. This is true public accountability.

Parents and students have the right to expect that teachers who are licensed to teach have the knowledge and qualifications to do so. They have the right to expect that teachers have completed pre-service teacher education programs. We do not believe it is in the public interest for students of any age to be placed in a position where they are subject to the authority of individuals who are not themselves accountable to a professional regulator.

The Chair: Just to let you know, you have a little less than two minutes to go.

Ms. Laframboise: Thank you. In closing, we submit that Bill 52 must be amended. The Ontario College of Teachers takes its legislated mandate to protect the public interest seriously. In our nine and a half years, we have licensed close to 100,000 teachers. We have approved ethical standards and standards of practice for the teaching profession. We have adopted a rigorous investigation and hearing process, and we have undertaken the accreditation of pre-service and in-service teacher education programs.

The public has come to expect that Ontario's children will be taught by teachers who are accountable to their regulatory body for their professional practice. Anything less is not in the public interest.

We would be pleased to offer further comment, advice and support to the government as it proceeds. We're happy to answer any of your questions, should we have a few moments remaining.

The Chair: You timed it almost to the second. We thank you very much for your deputation and for your time in coming in today.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION, TORONTO

The Chair: The Ontario English Catholic Teachers' Association, Toronto—Donna Marie Kennedy and Jeff Heximer. Welcome, or perhaps welcome back. If you remember from our last iteration, you have 10 minutes for your deputation. If there is any time, it will go to the

parties in rotation for a question. Please begin by stating your names for Hansard and then proceed.

Ms. Donna Marie Kennedy: Thank you very much. I'm Donna Marie Kennedy, president of the Ontario English Catholic Teachers' Association, and on my left is Jeff Heximer, who's one of our staff officers. First of all, thank you very much for giving us the opportunity to present today on Bill 52. You have a document that will be distributed to you on the regulatory framework for secondary school credits. As you know, from our perspective, as we've said before, we have some concerns about quality control and quality assurance with the present wording of Bill 52.

Ontario grants a single provincial secondary school graduation diploma, the OSSD. The commonality of this diploma provides assurances to employers, to post-secondary institutions, that students have completed a rigorous form of study in our secondary schools. It establishes a reliable and predictable standard by which all Ontarians can measure the education that graduates have received. The courses that our students take cover a variety of programs—we have outlined them there for you—and there have been provincial standards that have been recognized at the local level as well, where locally developed courses are offered so that individual students are meeting needs according to their own local community. If some of these requirements are replaced, in some cases the provincial standards established by the OSSD will become less reliable and consequently less valuable. If the OSSD becomes a locally awarded diploma, it will lose its credibility as a provincial standard.

Currently, there are many aspects that allow for equivalent learning contained in the Ontario secondary school curriculum documents. There are locally developed courses; there's co-op ed; independent study; supervised equivalent learning is currently being provided; and recognition for out-of-school learning, according to provincially defined standards. These maintain the integrity of the system. Ontario currently has a policy called prior learning assessment and recognition, PLAR, for secondary school students and adult learners, and this too can be used in schools to recognize prior learning outside of the school system. So we have those things already in place, and we believe the external credits are already recognized through this particular process.

Currently, publicly funded secondary schools and inspected private schools are authorized to grant credits, the OSSD and secondary school transcripts. Credits are granted exclusively by the secondary school principal, a member of the college of teachers. He or she is accountable to the school board and to the Minister of Education. The standards of evaluation for secondary school courses are set by Ontario's Ministry of Education assessment and evaluation policies. As it stands, Bill 52's provisions could weaken the quality control and universality of the education system, which protects the integrity of secondary school credit accumulation.

As mentioned by the previous speakers, teachers in our schools are responsible to the Ontario College of

Teachers. Almost 10 years ago, as the first chair of the Ontario College of Teachers, I made a deputation on the importance of having qualified individuals delivering programs to the students in our province. That holds today, as it did 10 years ago. It's incredibly important that members of the college deliver secondary school credits.

You'll see from the chart in 3.06, the impact of Bill 52 on secondary school course delivery, that there are no oversight provisions for the extended credits or equivalent learning, and we have grave concerns about that. The college of teachers does regulate the profession and it does regulate the members of the college, so we would ask you to carefully look at that.

Secondary school principals have exclusive authority to grant equivalent learning credits, and that is what we see as being the proper way to deal with these extended credits. If the Ministry of Education believes the Ontario curriculum is too narrow to meet the needs of all students, the current review of the policy documents should be used to encourage principals to approve locally developed equivalent course offerings to serve specific communities.

In conclusion, the problem with replacing regulated curriculum and course expectations with unsupervised, unregulated equivalent learning is the loss of integrity for the OSSD. No one in Ontario wants graduation rates to climb because expectations have been lowered. Similarly, no employer or educator believes that cheap labour and ad hoc courses will produce the skilled workers that Ontario needs to maintain a competitive edge.

Ontarians expect and demand bona fide course development and implementation consistent with the current regulatory framework. It will take bona fide course development to help schools support students who are fundamentally challenged by the standards set by the OSSD.

OECTA believes that Bill 52 is unnecessary and that its goals can be achieved by reforming the basic curriculum documents which provide the basis for granting credits in Ontario secondary schools. Therefore, our recommendations are:

- that the provisions for equivalent learning contained in Bill 52 are unnecessary and should be removed;

- that secondary school principals continue to be responsible for evaluating courses of study and ensuring that courses taught are consistent with the Ontario curriculum;

- that secondary school principals continue to have exclusive authority to grant prior learning assessment and recognition credits to students enrolled at their school; and

- that student learning for credit purposes be assessed by teachers exclusively.

The Chair: Thank you. This will be our first opportunity for questions this afternoon. It's the turn of the government side.

Mr. McMeekin: Thanks very much for the presentation. I caught your phrase about there being some

need for some work with the wording. I think you're right: I think we do need to work with some of the wording, and we are trying to do some of that, as you know.

Just in that context, the minister made some comments today about dual credits and equivalent learning, and she was very clear that the only people who would be granting credits would be the actual school boards and the ministry itself. Her sense is that anything beyond that would clearly be reflective of some sort of move toward privatization, and that's not what this bill is about. I just want to state that.

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In terms of words, words are important. I wanted to share those words with you and invite you, as best we can find a way to do it, to continue to collaborate so that the roughly 45,000 students who choose to leave can somehow be retained. It's our belief that we can do a significant job there. That will require investment in a considerable number of additional teachers with the links to the system, particularly in the context you've outlined. I offer that up. You're invited to comment on that if you wish, but I wanted you to hear those words as well.

Ms. Kennedy: Thank you. First of all, we are in full support of the learning to 18 initiatives, but we do believe that qualified teachers are required. So thank you for that.

The Chair: Thank you very much for your time this afternoon.

KEVIN GRAHAM

The Chair: The District School Board of Niagara, Don Reilly Resource Centre, Kevin Graham. Good afternoon and welcome. You'll have 10 minutes for your deputation. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Mr. Kevin Graham: My name is Kevin Graham. I am a technology consultant for the District School Board of Niagara. It's great to be back at Queen's Park. I was here 30 years ago on a job interview for a carpenter, so it's nice to be back.

I must first thank you for this tremendous opportunity to present a few of my views to you this afternoon. You'll not hear from a great orator today, as you have already; you will not hear from a person with an exceptional command of the Queen's English, but you will hear a compassionate plea from a carpenter, a teacher and a father.

I've been extremely fortunate to be on the ground floor of many of this government's exciting new initiatives. The District School Board of Niagara has developed an elementary technology centre for grades 7 and 8, housed in a secondary school, where elementary and secondary school teachers can work together to make for a smooth transition to high school.

With the increased emphasis on experiential learning, the District School Board of Niagara has watched as our students' participation in the Ontario youth apprenticeship program soared to over 400 signing their appren-

ticeship registrations while still in high school and starting down their journey into the skilled trades.

The District School Board of Niagara has received funding as part of the rural Lighthouse projects: one in viticulture, the other in the construction sector. Both have been extremely successful. In fact, just before I came here today I stopped at a job site in Beamsville that is building a new home and watched 22 young students sign their apprenticeships with the Ministry of Colleges and Universities and start their life in a skilled trade—a day that I'll never forget when I signed my apprenticeship papers, and I know they'll feel the same way tonight when they go home.

The District School Board of Niagara has been fortunate to be a pilot in the specialist high skills major in construction as well. The former Minister of Education, Sandra Papatello, kicked off this event in Niagara this September with our newest partner, Phelps Homes. Our second phase of the District School Board of Niagara's specialist high skills major will begin in January, where DSBN technology students will participate with Habitat for Humanity on our third build. Over the past three years, we have seen nearly 1,000 students participate in these builds. This year, the students involved will receive industry-recognized certification, as well as courses in math and English which have been contextualized to meet the needs of the construction sector.

In the 20 years that I've been teaching, in the 20 years that I've been in technological education, this is the most exciting program I have seen for our students. I want to thank the government for that.

The former Minister of Education also stated at our specialist high skills major kickoff that this government has delivered over \$53 million into technological education. She stated that more than 300,000 students benefited from over 200 new technology education courses and that over 500 new units were added to technological education courses across this province. This government's position to enhance opportunities for young people in the skilled trades is truly inspiring.

Along with these new initiatives, this government now wants to pass Bill 52, which would give secondary school students the ability to take college courses while still in high school, for which they would receive both college and secondary school credits, called dual credits—two simple words that, in my opinion, have the potential to undermine everything great this government has done for students enrolled in technological education. The same government that has reduced the early-leaver rate from 29% to 25%, giving thousands of kids the opportunity to reach their dreams, now wants to be able to send secondary school students to college institutions that have a dropout rate of 42% in the first six weeks, according to the Alan King report.

For this government to launch a plan that would take students out of a secondary school setting with safety nets in place, with qualified technology teachers who are also skilled tradespeople, teaching them not only the skills of their craft but acting as mentors, trainers and

educators, while being able to meet each and every student's specific learning and education need because of the formal training they have already had at faculties of education across this province, is short-sighted at best. Technological education is offered in over 700 secondary schools across the province, delivered by qualified technology teachers. Suddenly, 24 colleges are able to deliver the same program in the same way, meeting the needs of young adolescents? I would think that's highly unlikely. How will students in remote communities, without a community college presence, have the same opportunities that might be available in urban centres like here in Toronto? The very initiatives that have set this government apart from previous governments have all been about student success, yet this initiative regarding dual credits has the potential to devastate technological education and the beginnings of apprenticeship training that is fostered in our students.

Dual credits, at first glance, appear to be helpful and innovative but in the long term will prove to be devastating to students in the next few years—devastating to secondary school technological education, devastating to the Ontario youth apprenticeship program, devastating to boards like the District School Board of Niagara that are undergoing declining enrolment and devastating to the potential number of young people wanting to pursue opportunities in the skilled trades in Ontario. Devastating.

As dual credit opportunities expand, and they will, you will see technological education numbers decrease, as they will, making it impossible for schools to run specific classes. As senior classes are eroded, and they will be, interest in these classes will dwindle. The very classes that have been the support and feeders to the Ontario youth apprenticeship program, the specialist high skills major programs and the Lighthouse programs will no longer be a viable option for secondary students. This is when you will see the number of students registering for apprenticeships decline, the interest in the high skills major decline, the Lighthouse projects decline and the knowledge and understanding of the skilled trades vanish, leaving Ontario in an even greater crisis in the area of the skilled trades.

If I have not convinced you that dual credits will be harmful to the long-term opportunities for our students—and I know you've heard many speakers before me and you'll hear many speakers after me—and you can honestly say you believe in dual credits and your opinion has not been changed, then please look at making it a two-way street: Please consider giving high schools across the province the chance to deliver college credits in a secondary school setting; the opportunity to reinstate, which we had many years ago, in many cases, the ability of secondary schools to deliver part one of apprenticeship training.

For the sake of our students, for the health of technological education in Ontario, for the further development of the skilled trades in Ontario, please rethink your intention to implement dual credits. Please take a

moment and think of the impact this will have on school boards like the District School Board of Niagara that are in the midst of declining enrolment. Please take a moment and think of the thousands of students who may never experience the opportunity to develop the skills required for today's workplace.

The Chair: Just to advise you, you have about a minute left.

Mr. Graham: They need a community college to experience technological education.

As a close colleague of mine, who is the dean of technology at a community college, often states, the strengths of the community college technology programs are directly tied to the experience that their students have while in a high school technology program. These students arrive at the college much better prepared to be successful in the college programs as a result of their high school experience. Dual credits have the potential to greatly harm secondary technological education programs, and for this reason I would strongly urge you to reconsider this initiative. Please take a moment and think of the consequences of the dual credits.

The Chair: Almost to the second. Thank you very much for your deputation this afternoon.

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ONTARIO FEDERATION OF HOME AND SCHOOL ASSOCIATIONS

The Chair: Our next deputation will be the Ontario Federation of Home and School Associations, Michele McNabb and Lee Gowers. Good afternoon. You'll have 10 minutes for your remarks. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Ms. Michele McNabb: Good afternoon. I'm Michele McNabb, and I'm currently serving as the first vice-president of OFHSA and represent our organization on the learning to 18 working table. Sitting beside me is Lee Gowers, our policy chairperson and past president of the Hamilton-Wentworth Council of Home and School Associations.

About OFHSA, the Ontario Federation of Home and School Associations: We're a provincial, parent-based organization established in 1916, with presently over 7,000 members. Our mandate, beliefs and policies are determined by our members. We meet annually to review our actions and select new initiatives for policies as proposed by those members. As an incorporated body, our board of directors and executive committee meet several times during the year. We're a grassroots group: Our association units are established in the schools, with parent members working to support and adhere to our constitution and bylaws.

Provincially, we are invited to participate on many Ministry of Education committees and working tables, and have been recognized over the years as one of three official parent groups in public education. We have

representation on the partnership table and were involved in the recent Parent Voice in Education project. We have forged alliances with our trustee association (OPSBA), the teacher federations, the Ontario College of Teachers, EQAO, Ontario Principals' Council, Ontario Public Supervisory Officers' Association (OPSOA), Ontario School Bus Association and other education partners. Our volunteer parent members are involved in the local school, school board and provincial levels.

In our review of the proposed Bill 52, we note several items:

- (1) We do not want to see the OSSD (Ontario secondary school diploma) devalued;
- (2) Proposed programs should be geared towards at-risk students;
- (3) Qualifications of instructors are crucial;
- (4) Support, common standards and monitoring must be the responsibility of the Ministry of Education;
- (5) Funding for new initiatives must be adequate; and
- (6) Non-support of linking drivers' licences to school attendance.

To expand further:

- (1) We do not want to see the OSSD devalued: A positive learning environment, compulsory courses and a social environment are important components of student life in secondary school. Enriched experiences in a supervised setting help them develop into mature, responsible citizens. We currently expect students to achieve a certain standard, and we need to maintain that, offering the best for each student.

The community of a school is varied and offers students opportunities to explore their talents, skills and desires. We would hope that this very fabric of school life will be continued and not negatively impacted by outside programs.

- (2) Proposed programs should be geared towards at-risk students: That being said, we would recognize that our current school structure does not benefit all students, and we would encourage that any new learning opportunities be targeted primarily to at-risk students, who might be most needy. We should consider student needs, wants, the school and community resources in providing engaging, positive programs. Programs must be credible and prepare students for transition into the adult world, while realistically providing the core curriculum required for an OSSD.

- (3) Qualifications of instructors are crucial. To us, the qualifications of instructors and organizations are crucial to ensure the integrity of any program. OFHSA has repeatedly advocated for certified and qualified teachers for our students, with evaluating and reporting mechanisms in place.

Personal and workplace safety is essential, and a clear course plan must be provided before allowing students to enroll. While co-op and apprenticeship programs are administered through the schools and required to provide these safeguards, we would expect no less from any other provider.

- (4) Support, common standards and monitoring: In order to offer equitable opportunity to our students, we would strongly encourage the Ministry of Education to set common standards, including monitoring of programs, while still allowing local school boards to determine their programs. Mandatory reporting of programs should be required for all school boards.

- (5) Financial funding and support from the Ministry of Education is needed to encourage school boards to research and establish new initiatives for their at-risk student population. There is also a concern that funding dollars may be diverted from school boards and ultimately force schools to offer less program choice for the students in their traditional school setting.

- (6) We do not support a proposal that would deny or suspend a driver's licence to out-of-school youth. We feel this is a counterproductive and punitive action that could be challenged in the law courts under the Charter of Rights legislation. As well, increasing fines for parents and employers who violate the "school until 18" regulation is considered unproductive and largely unenforceable.

Thank you for this opportunity to present our views regarding this piece of legislation. While we applaud the intent of the bill—promoting education and success for all students—we would have preferred to see a better definition of education delivery in today's world, with full disclosure of criteria, standards and accountability in the legislation.

The Chair: Thank you. Our rotation moves to Mr. Klees.

Mr. Klees: Thank you for your presentation. We have been saying from the day that this bill was introduced that no one can argue with the stated intent of the bill. There wouldn't be anyone in this province, I think, who would argue with wanting to ensure that young people stay in school, that they graduate and have the best education possible.

We've also said, from the very first day that we read this bill that it is so fundamentally flawed, that on the one hand we have the punitive measures of stripping these licences for students who drop out, to this very unnecessary aspect of the bill that submitter after submitter—we've heard from teachers and students. There hasn't been a stakeholder who's come forward who hasn't affirmed that all of the things that are intended with regard to equivalent learning are being done now. Wonderful programs.

And by the way, the framework for all of that was introduced in this province in 1999. All of those equivalent programs that have been referred to time and again throughout submissions refer to that framework that was put in place in 1999.

Would you agree that this bill really does undermine that framework by allowing for a watering down of standards? You mentioned that standards are very important and should be province-wide, and that what's really missing is the appropriate funding and resources so that the proven programs that are already working well could

in fact be expanded and strengthened throughout the province.

Ms. McNabb: Yes, I think we could agree in principle on that. In working with the learning to 18 working table, a lot of the comments that came from this varied group were so positively pushed towards the student, and the at-risk student, understanding that "at risk" can sometimes be a student who is doing okay academically but may not have the interest or may not be able to have the opportunities.

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Our provincial organization sees a lot of disparity in cities, urban and rural. A lot of the opportunities we have for children are not implemented because the school boards, frankly, don't have the money. But, as you say, the intent of the bill is to keep our children understanding that their educational successes, their success in life, is what we do strongly support.

The Chair: Thank you very much. That concludes the time that we'll have for you.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 22

The Chair: Our next deputant will be OSSTF, District 22: Daniel Peat. Good afternoon. If you've been here a little while, you've gathered the ground rules. You have 10 minutes for your deputation. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and proceed.

Mr. Daniel Peat: Thank you very much. My name is Daniel Peat. I want to, first of all, thank you for the opportunity to present to the committee and to let you know that I represent approximately 1,300 teachers and occasional teachers in the District School Board of Niagara. That's an area that extends from Grimsby to Niagara-on-the-Lake to Fort Erie to Port Colborne.

My colleague Kevin Graham made the presentation just before the home and school association. He's the consultant for the District School Board of Niagara in technological education. He brought to your attention several existing technological education programs which already addressed the needs of students who might otherwise drop out of school before 18 and do it without the use of Bill 52. These include the Ontario youth apprenticeship program and partnerships involving the local Habitat for Humanity and a local builder. These are extraordinary programs, and you should take any opportunity you can to have a look at some of these programs in the board. They go well beyond the stated objective of keeping students in school till 18. They give students a head start on apprenticeships, they give them contact with future employers in our communities and they expose them to an ethic of volunteerism. They've been so successful because they engage our students. That process begins with a strong science and technology curriculum in our elementary schools, culminating with regular classes in our design and technology centres in grades 7 and 8, then followed, in secondary school, by

guaranteed access to a wide variety of technological programs in each of our families of schools.

The key to the success of our students is twofold. Firstly, the teachers of secondary school technological education programs are all both experienced tradespeople and trained educators who are sensitive to the learning needs of adolescents. Secondly, these programs have had support by the DSNB beyond the provisions of the funding formula and the strong support of our local communities.

However, commitment to the success of adolescent learners is not limited to innovation in technological education. We have also developed programs that meet the diverse needs of other adolescent learners and lead them to brighter futures.

The college link program is an example. This program operates under the auspices of Welland Centennial Secondary School. The school is a short walk from the Welland campus of Niagara College. For several years, since before the formation of the district school board, this program has offered an opportunity for students who have not had success in our secondary schools in the Welland area to complete their secondary school education and be given a pathway for admission to Niagara College.

It is essentially a one-room schoolhouse which has been located in a number of locations in Welland, but most often on the Niagara College campus. Students who complete the credits required for graduation are automatically given an opportunity to study at Niagara College. This program has enabled hundreds of students who might otherwise have never finished high school to go on to college. It has been so successful because of the small class size and the close cooperation between the secondary school teacher and members of the college staff, which provides transitional support to the students in the program. We are very proud of this program, and it has benefited students in our community without any of the dual credits proposed in Bill 52.

A similar program is being set up this year at the Niagara College campus serving St. Catharines and Niagara-on-the-Lake but with the provision of dual credit to be given for college courses taken two days a week.

We have several concerns regarding these dual credits. Offering a full OSSD credit for a much shorter college course is a threat to the integrity of the OSSD. Secondly, any introduction of dual credits will cause a shift of students from our secondary schools. If any commodity is offered on a two-for-one basis, buyers will choose that source rather than the source where it's offered at full price. Offering dual credits is an innovation which would cause students to leave the secondary schools, where there are more supports for learning, for the college system, where there are fewer supports and, accordingly, there is far less chance for student success. Thirdly, schools in most parts of Ontario, particularly in Niagara, are facing significant pressures due to declining enrolment. Anything that takes students out of our secondary schools could tip the balance towards the closing of the secondary school in many of our communities. The

introduction of dual credits would be the death knell for secondary schools in many Niagara communities.

Another program is the rural schools' agricultural or viticulture Lighthouse program, combined with what we call our Leaver Retriever program. The funding of this pilot project is from the Ministry of Education. It has allowed us to expand our co-operative education programs into various agricultural industries in Niagara. It's targeted to address the needs of rural students to learn from the leading innovators in agriculture, including Niagara's wine industry. We'd like to expand this program to other industries in Niagara, including the hospitality industry.

Many students in this program have come back to school through a Leaver Retriever program which is run by a youth worker acting as a back-to-school coordinator. After a semester or two out of school they realize that the door is closed to them without a high school education. Again, the success of this program lies in its link to the community, the skills of a professional youth counsellor and the supervision of a co-operative education teacher. Secondary school co-operative education teachers are trained to make the required links between the curriculum and the community.

We also have alternative education programs called Success and Bridge. For many years now they have served students who have difficulty in our mainstream schools. There are now two such programs available to every family of schools in Niagara.

The Bridge program is tailored to students leaving elementary school. Students who are identified as being at high risk of not succeeding in secondary school are taught in a self-contained environment by an elementary teacher and a secondary teacher with the support of a trained child care worker.

The Success program assists older students, where they are taught by a secondary school teacher, with regular visits by a youth counsellor. Hundreds of students have been able to graduate from secondary school and become productive members of our communities with the assistance of these programs. They have succeeded because of the support of the DSBN beyond the funding formula, which allows the right combination of professionals to work together in a team. There are no dual credits required and there have been no threats of not being able to get your driver's licence to help these students at risk. The emphasis to help students to succeed must be positive and not negative.

The Chair: Just to advise, you have a little less than two minutes.

Mr. Peat: Thank you. I've given examples of a number of programs which address the needs of our most at-risk students, those at risk of not graduating or of leaving school before they have the tools they need for a career. I hope that you will realize that the introduction of dual credits is opening a door which amounts to the door to voucher education. It could really damage the community schools in Niagara.

The Chair: Thank you. Mr. Tabuns, can you make the question a short one?

Mr. Peter Tabuns (Toronto-Danforth): Sure. I gather that you folks don't support this bill, or don't support it without dramatic rewriting. Is that a fair summary?

Mr. Peat: I would say that's a fair summary. We don't support this bill. We find it unnecessary and a diversion of attention, and probably funding, away from the real needs of the system.

Mr. Tabuns: Thank you. Do I have any time left?

The Chair: If it's another short one.

Mr. Tabuns: My brother's a teacher in the Hamilton-Wentworth system. I told him about this bill and he went crazy, not about the dual certificate business but because of the idea that kids would be forced to stay in a class when they'd given up. He said, "I already deal with students who are totally disruptive, and the thought of imprisoning them in my class makes me go up the wall." Is that a perspective shared by other teachers?

Mr. Peat: That's a valid perspective; it's a perspective shared with me by a trustee yesterday evening. The answer is to create programs that are innovative and attractive to them and serve their needs, not force them under threat of not getting their driver's licence to stay in a classroom.

The Chair: And at that point, thank you very much for your time, for coming in today.

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ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair: Our next deputation will be OSSTF Rainbow District 3, Rhonda Kimberley-Young and Ken Coran. Good afternoon and thanks for joining us this afternoon.

Ms. Rhonda Kimberley-Young: Mike Page, one of our locals in District 3, was unable to be here today. I am here in his stead. I am also the president of OSSTF provincially. To my left is Ken Coran, who is the vice-president of OSSTF. I hail from Upper Canada and Ken from Thames Valley. But I think today, rather than speak primarily about the innovative programs that might be there in our own districts, from our own home towns, we want to speak in a broader context about the bill.

I think it's also information that might be—

The Chair: Just before you get going, could you just please introduce yourself for the purposes of Hansard. You'll have 10 minutes for your deputation. If you leave any time remaining, it will go to the parties in rotation.

Ms. Kimberley-Young: Thank you very much. My name is Rhonda Kimberley-Young; my colleague is Ken Coran, for Hansard purposes.

Earlier today, Ken and I were at the OTF executive meeting and in fact earlier today the OTF executive met with Kathleen Wynne, Minister of Education. While I'm not here to speak officially on behalf of OTF, as I am not their president, certainly I can share with you that the OTF executive today passed an addendum to their earlier submission on Bill 52 and we made Minister Wynne aware of that today. It does in fact call for withdrawal of

the bill, because it is unnecessary to meet the objectives as set out in the legislation.

I'd also like to be very clear about the process since this bill was first introduced, because I think there is some misunderstanding. While the bill was introduced some time ago, we have repeatedly asked the minister and the minister's staff over that period of time—a succession of three ministers—what was in fact intended by this government through equivalent credits, dual credits or external credits. We were provided no answers, but reassurances that many of the concerns that we were expressing would be addressed through the course of the legislation and debate.

The Liberal government has set up many consultation mechanisms, a learning to age 18 table. There is in fact a subgroup of the learning to age 18 table on dual and external credits. It has never met. This issue was only raised once and very recently at a venue called the Student Success Commission, and the earliest proposals, that we happen to be aware of because we sit there, were certainly not proposals which we believe are of value to meeting the objectives of the legislation.

So I want to be clear: From our view, this is not an issue of the policy and its implementation. This is an issue of legislation is enabling credits to be delivered by non-certified, non-qualified instructors outside the school setting. OSSTF supports learning to age 18; in fact, we set up a student success proposal many years ago, and that was a component of it. We want to work constructively with the Ministry of Education, with the school boards, with the skilled trades sector, and with other partners in education to ensure a broad range of learning opportunities for all Ontario students. We want our students to succeed in achieving a secondary school diploma, so it will open doors for them—doors to the world of work, to apprenticeships and other post-secondary education. But we also want to ensure that the diploma they earn has value.

Ontario's diploma is widely respected, in Ontario and outside the province, and I think critics of this legislation could quite easily contend that what it will in fact do is water down the requirements of the secondary diploma. It's because of those strong beliefs that we have concerns about Bill 52. I think you've heard many times the concerns around the requirements around the driver's licence. We think that is an unproven means to keep students in school and is something that will be applied very inequitably, particularly between rural and urban students, but in other ways as well.

The primary concerns we have, however, are around the dual and external credits and it is now clear—we have made an earlier submission, but the more we have researched and investigated the pilot projects and other things that are happening around the province, we believe there are, frankly, no amendments to the bill which would adequately prevent the harm caused by the widespread introduction of dual or external credits by unspecified and unlimited providers.

We believe there are already equivalent learning opportunities available through district school boards

supervised or taught by certified teachers. In fact, this year there are over 1,500 of these credits being successfully offered through innovative pilot projects involving certified teachers. We believe the bill is absolutely not necessary because of the provisions that already exist in the Education Act, because of the provisions and latitude that already exist within the OSS curriculum and because of PLA, prior learning assessment.

We would argue that Ontario students deserve better than to receive their secondary school credits from un-certified personnel who have no formal teacher training, no experience in teaching adolescents and who are not screened through a criminal background check procedure. Such providers would not be required to abide by the professional and ethical standards established by the Ontario College of Teachers and they would not be subject to the teacher performance appraisal process.

Bill 52 contains no standards for a program or courses to be offered as dual or external credits. Reference is made only to guidelines to be developed under the powers of the minister to direct boards to create policies and procedures.

There are no details on critical issues such as the nature of the providers of external credits or the screening process for the providers. There is no mention of reviewing course content and no avenue for course consistency. There is no definition of the length of the courses or the rigour of the content. There is no provision to monitor student attendance or for the replacement of absent personnel. Some providers are already advertising credits for 45 hours without an exam, as opposed to the 110 hours required for a secondary school credit.

All of these point to the fact that this legislation is unnecessary, and instead of meeting the objective of helping students at risk, in fact opens up doors to greater harm. There is no provision through this bill for the professional support services like guidance, educational assistants or professional student support personnel that at-risk students need.

We believe that the dual and external credits may call into question the established reputation of the Ontario secondary school diploma. Providing additional credit opportunities to all students may well lead to already successful secondary students fast-tracking into college or university rather than assisting those students who are more likely to drop out with innovative programs. This is the opposite of the intent of the legislation and it may in fact lead to our vulnerable students becoming even more vulnerable.

We applaud the intent of the legislation to make more students successful at high school, to broaden the range of opportunities, but the legislation is not the necessary tool to do it and in fact may open a whole range of problems and complications that, in the end, defeat the very purpose of the legislation before you.

Ultimately, we are very concerned that the removal of funding from the system to support these dual and external credits may actually cause a further reduction in board budgets and put other existing programs in jeo-

parady. It's not clear at all who would do the oversight and administrative work associated with these credits.

The Chair: Just to advise you, you have a little less than two minutes.

Ms. Kimberley-Young: Thank you. All the educational goals of the bill, we believe, can be accomplished within the existing curriculum, within the legislation and certainly constructively with our help. We would love to see the innovative programs continue. We'd love to see more pilots. We'd love to study those to see what works best. We would like to see co-op programs and opportunities expanded. We need to see an improvement and advancement of what's available in our technical education programs. Frankly, if it's the students at risk whom we are most trying to reach, we need to make sure the supports they need in their regular school program are also being met. We want to work constructively to help students learn successfully. There is nothing we want more as a federation. This legislation does not achieve it.

The Chair: Thank you very much. That, almost to the second, concludes the time that you have allotted. I thank you very much for your time today.

Our next deputation will be from Matthew Corney. Is Matthew Corney in the room?

1640

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 10

The Chair: OSSTF, District 10. Mr. Devin Pearson? Good afternoon. Make yourself comfortable. You'll have 10 minutes for your deputation this afternoon. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard, and then proceed.

Mr. Devin Pearson: Good afternoon. My name is Devin Pearson. I am the president of OSSTF, district 10, in Lambton-Kent, where we represent over 600 teachers. Thank you for allowing me the opportunity to bring forth my concerns regarding Bill 52.

First and foremost, let me be clear in stating that we do not feel that Bill 52 is necessary. Current legislation exists that provides opportunities for school boards to expand and increase learning opportunities. In order for boards to do this, what is needed is long-term funding that is adequate and sustainable. This funding must be provided. Many boards across the province currently have projects in place that meet the expectations of Bill 52. Many boards, including the Lambton-Kent District School Board, have initiated or participated in pilot projects but, due to a lack of funding, have cancelled said initiatives in most cases. Funding that is ongoing, as I said, is what is needed, not Bill 52.

We currently have many success stories in our schools: co-op education and the partnerships required with community partners. These credits are tied to the curriculum, supervised by certified teachers, and provide students with real-life and real-work experience. The Ontario youth apprenticeship program and experiential

learning program, aimed at providing students with the skills necessary to gain valuable training and expertise, have been in place and are successful. New partnerships are always being sought out, including the recently-announced co-op placement with the 1st Hussars, a regiment in the Canadian Armed Forces. These programs have proven to be successful. They work well. The programs that already exist need to be expanded and funded adequately. These programs all have one thing in common: They are tied to the curriculum and supervised by certified teachers. Bill 52 will seriously undermine these initiatives by allowing uncertified providers to deliver courses to our students.

My question, in closing, is: If the system is not broken, why are we trying to fix it? I hope that, given what you have heard today from many people, you will rescind Bill 52 immediately.

The Vice-Chair (Mr. Mario Racco): We've got about six minutes, so I'll start with Mr. Klees. Two minutes each, please.

Mr. Klees: Two minutes.

The Vice-Chair: Yes. Or less.

Mr. Klees: That's a very consistent message you've given us: Rescind Bill 52. What we've heard is that we couldn't pull together enough amendments to actually plug all the holes in this thing. I asked the minister during question period today whether she would be prepared to do that, and what she said was that she was looking for wording from stakeholders to fix the bill. In your opinion, is it possible to fix this? Can we find the words to fix this bill, or is it best to just pull back and get on with life, and put in place a cheque instead of a bill?

Mr. Pearson: It would certainly be welcome to rescind the bill, for sure. And adequate funding, as I said. I stated that clearly.

Mr. Klees: Thank you. That's a good theme, Chair: a cheque instead of a bill.

The Chair: Mr. Tabuns.

Mr. Tabuns: Thanks for the presentation. It's pretty clear to most of us that this bill is fatally flawed. Why on earth do you think this bill has been brought forward? You know what needs to be done to keep kids in school. Can you speculate as to why this bill is before us?

Mr. Pearson: No, I can't. Sorry.

Mr. Tabuns: No. You know, it's a mystery to me as well. I have to agree with the opposition here. I can't see any reason to continue with this; I can't see amendments that would make this particular dead bill live. I would just hope that you and other teachers are organizing and mobilizing to ensure that it's withdrawn.

I don't have a question; I'm just expressing a hope.

The Chair: Mr. McMeekin?

Mr. McMeekin: Thanks. If it ain't broke, don't fix it. I think there are 45,000 high school students out there who drop out who might want to debate whether it needs fixing or not, but we've got a couple of student stories. I'll just read a sentence from each.

"I thought this dual credit hospitality program was great. I want to be in this industry in the future—so this

program is giving me a head start on my career. Joseph Behse." He's involved in the hospitality services specialist program in Thunder Bay.

Lewis Laforme, the school within a college program: "The SWAC program allows students to explore the 'trades' while being treated as adults. I love the college setting and find it less distracting than high school. I like working at my own pace to make up credits and find that I try harder than ever to complete work. Students are able to recover credits in order to graduate and now they feel like they have a future."

So there are some good experiences out there—co-op education and some of the dual credit programs that are working. I just want to make sure that's on the record and thank the gentleman for his presentation.

The Chair: Mr. Pearson, do you have any brief closing words?

Interjection.

The Chair: Okay. Thank you very much for your deputation and for taking the time to come in and present to us this afternoon.

WESTDALE HOME AND SCHOOL ASSOCIATION

The Chair: The Westdale Home and School Association, Jean Lewis Knight. Welcome this afternoon. If you've been around here a little while, you'll know that you have 10 minutes for your deputation. If you leave any time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Ms. Jean Lewis Knight: Jean Lewis Knight. I am currently the president of the Westdale Home and School Association, the interim chair of the Hamilton-Wentworth Parent Involvement Committee and also the first vice-president of the Hamilton-Wentworth Council of Home and School Associations. But first and foremost, I am here today as a parent of four children within the system, two of whom are at the secondary level.

It was with a great deal of debate and dissension, and sometimes disgust, that parents were introduced to the notion of standardized testing and common curricula for students of Ontario. I could share personal anecdotes at this point that would far exceed my allotted 10 minutes, and perhaps illustrate the good, the bad and the ugly. Be that as it may, and with personal preferences aside, there is something to be said for knowing that an applied credit or an academic credit awarded in Hamilton is equivalent to one awarded in North Bay or anywhere else in the province. This is of great importance, not just for parents and students but to universities, colleges and industry.

The proposed changes in granting up to eight secondary credits by recognized youth organizations, as stated in the bill, could very well change that simple fact. At first glance, most people think that it would be wonderful for students to be able to gain credits through the Royal Conservatory of Music or college, but that is not the limitation on the bill. A credit could be granted at the

direction of the individual district school boards, by Scouts Canada, religious factions or perhaps even a political organization. I did have "Progressive Conservative Youth," but they made me take that out. This could be a very slippery slope. Can we ever predict the ending?

So many new programs and initiatives are in place to ensure that students can be successful, but they need secured long-term funding and the luxury of time to illustrate their value. These include credit recovery classes, increased co-op programs and locally developed courses that are linked to individual communities. All of these initiatives are balanced with classroom requirements, structured evaluation, trained staff to monitor and guidelines for students. The new pathways approach has just been launched and it should be given the opportunity to prove itself. Why do we need to extend this portion and leave it so open-ended before we see the results of what has so recently been instituted?

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Built into existing programs is a WSIB component so that the student understands and is well aware of the expectations and restrictions of their study outside of the traditional school setting. As the bill is written, there will not be a requirement that this be addressed. Who will be liable in the case of an accident—the school board, the organization or the province?

At some point in the granting of a credit, a trained professional should be included in the evaluation process to ensure that the best interests of the students are being met. With the possibility of eight credits—some of which could be compulsory—granted outside of traditional parameters, secondary schools could lose ministry funding on a per pupil basis that could greatly alter the quality and quantity of programs being offered. This is not only at the perceived lower end of the academic scale but in some cases at the more crucial artistic level as well. At Westdale, for example, we currently offer a board-wide strings program. If all of the parents who could financially afford to send their children to the conservatory did so, would the program still be viable to offer to the rest of the student body? We attract students from no less than 15 census tracts, many of which are middle- to lower-income. Should all of those students not benefit from the incredible instruction and performance opportunities currently offered?

Most studies support that the engaged student is more likely to succeed in school and in life. This is touted as one of the reasons behind the bill, but I would beg to differ in regard to the results. Secondary school expectations far exceed what you learn in the classroom, but sometimes, more importantly, the involvement in the school community—I could cite examples of how those experiences have shaped my character and subsequently my life. The possibility of negating an entire year of that experience, which has already been shortened technically to four, is beyond scary and approaching absurd. My own children are perhaps members of the most unusual of all extracurricular pursuits, but their value and impact is without comparison, whether it be a defining factor in

receiving a diploma or not. It is the richness and opportunity of the extracurricular portion of the secondary school that can have the greatest impact. Instead of simply pushing to have students stay in school, why not make funding available to engage them earlier, so that they cannot imagine leaving?

Currently, we see many students struggle to complete secondary education, but it may not be as simple an answer as one might think. Students who live on their own, for a myriad of reasons, only receive financial support from government agencies to the amount of \$534 a month. Consider that for a moment. At Westdale we have a diverse student community that extends far beyond what one might expect. Socio-economic factors for many students are an issue. We have instituted a walk-in closet program through a partnership of the administration, staff, students, community and our association. This program offers support to students to encourage them to remain in the school setting by offering food, clothing, cleaning supplies, toiletries and school supplies. Why not consider supporting these positive initiatives that can greatly increase the chances of a student remaining, rather than a negative-billing approach that may seem punitive to students as they attempt to secure jobs, work placements or, in some cases, be able to participate in extracurricular activities? The Hamilton-Wentworth District School Board covers a vast geographic area, most of which is not accessible by public transportation.

As a parent, taxpayer and future employer, I need to know that there is integrity and value to the diploma that is awarded. I need to know that expectations were set, met and, perhaps at some times, exceeded or redefined. Bill 52 in its current state does not ensure that I will be secure in that knowledge. What is the goal at this point: to ensure quality education for every student or to ensure that an election promise can be met? One of the buzz phrases right now is "Strive to 85." Are we concerned with giving out a predetermined number of pieces of paper that represent a secondary achievement, or ensuring that our students are well prepared for the future? I hope it is the latter.

In many ways, we fail to celebrate the successes of our students, schools and systems. There are amazing people doing great things, and they deserve your positive support to continue those endeavours. I would urge you to ensure that funding dollars are available and that our students are taught by qualified professionals. I sincerely hope that the future of every student can be full of promise, opportunities and the chance to succeed beyond our expectations.

Thank you for the opportunity to address this.

The Chair: Thank you very much. Mr. Tabuns, a quick question.

Ms. Lewis Knight: Don't feel you have to ask questions.

Mr. Tabuns: Okay, I'll take that under advisement.

Do you think that it would be good for the school environment to have students forced there because they're deprived of a driver's licence?

Ms. Lewis Knight: I don't think that's the right motivation for a child to stay in school. I think that there are lots of wonderful motivating factors right now. There are some incredible things being done in our system, and we need to applaud those things and provide the adequate funding for those things to remain in place—and they're so diverse. My children really are in some of the most unusual extracurricular activities. They're part of the classics conference, where they go with children from all across Ontario and celebrate what is basically a dead language. Having them not get a driver's licence is not going to encourage them to stay in school or promote a positive atmosphere.

Mr. Tabuns: I think the same way.

The Chair: Thank you very much for having come in this afternoon and for your deputation.

AFRICAN CANADIAN LEGAL CLINIC

The Chair: Our next deputation will be from the African Canadian Legal Clinic: Royland Moriah. Good afternoon and welcome. You'll have 10 minutes for your deputation this afternoon. In the event that you don't use all of the time, it will go to the parties, in rotation, for questions. Please begin by stating your name for Hansard and then proceed.

Mr. Royland Moriah: My name is Royland Moriah. I'm the policy research lawyer at the African Canadian Legal Clinic. I'd like to thank you, first off, for the opportunity to present; we made the decision to do so on quite short notice, just a couple of days ago, because we thought it would be good to at least raise a couple of issues and really one issue that's of critical importance to us and to our community with respect to Bill 52.

I'll let you know a little bit about the African Canadian Legal Clinic. We are a legal clinic that's funded by Legal Aid Ontario. Our mandate is to conduct legal work aimed at addressing systemic discrimination, primarily through a test case litigation strategy. In doing so, we've been involved in cases before tribunals and all levels of court, up to and including the Supreme Court of Canada. We also, of course, are involved in monitoring legislation—and that is the reason I'm here today—and engaging in advocacy and public legal education, all aimed at eliminating racism and anti-black racism.

The issue of education, obviously, as for all communities, is something that's very important for our community as well. It's something that we do quite a bit of in terms of the work at the ACLC—and I'll refer to us as the ACLC throughout my presentation here. In terms of the work that we have done, it has been advocacy at all levels, whether dealing with problems that teachers have—also to parents and students—in a variety of matters and arenas.

We're pleased to have the opportunity to present on this bill. This education issue, as I said, is very critical to our community, mostly because of the position that we're in in terms of the education of our children at this point in time.

Unfortunately, the dropout rates for African-Canadian students still remain unacceptably high. I think that's something that probably doesn't come as a surprise to a lot of people on the committee, but it is something that continues to be a problem.

A 1997 study, which is quite old, by George Dei, indicated that the dropout rate was 44% for African-Canadian students.

In terms of some new information—and I know that this is something that you might want to take a look at yourself, because it actually talks about high school graduation rates for a number of communities, specifically in the GTA. This was work that was done by Michael Ornstein at York University. According to his study as well, which was just released this year, it's very much the same in terms of lack of graduation from high school for people of African descent, either from the African continent or even from the Caribbean, and also indigenous African-Canadians. Given that reality, it's obviously very important that we really critically look at the strategies that we're putting in place to address the issue of increasing high school graduation rates for all students, not only for African-Canadian students.

I know, from looking at some of the submissions from some of the previous presenters, that a lot of them have already talked about the fact that there doesn't seem to be any discussion of whether or not there's a correlation between increasing the compulsory attendance age and actually ensuring that students are going to graduate from high school, and I think that's something that obviously needs to be thought about as we're looking at this piece of legislation.

1700

Really, in terms of our submission, aside from concerns we have—and I know that a couple of the presenters have raised that already—with respect to the issue about the punitive nature of the legislation and the fact that there are fines that are imposed and the fact that there might not, again, be a correlation between suspending licences or not allowing children to have licences and their willingness to go to school because of that. Our primary issue is with respect to whether or not this proposed legislation actually effectively deals with the issue of high dropout rates.

In looking at this legislation, one of the things that strikes me is that it divorces the decision to leave school from the personal circumstances of the student. I think any educator would say, in looking at the reasons why students will drop out, that you can't point to one thing. It's not necessarily a personal decision, that I wake up in the morning and decide to drop out of school. It's a variety of factors, and until we address and look at those factors, we can't honestly say to ourselves that this piece of legislation is going to do what we want it to do. So it's our submission that we have to commit to recognizing and addressing these underlying causes before we can determine what effective strategies we can put in place to deal with the problem.

In terms of the context of African-Canadian students—and they are who I am here to advocate on

behalf of, and I certainly can't say that I advocate on behalf of the entire community; obviously, we have a very diverse community, as many others. But it is a relevant issue for us in terms of looking at that context, in terms of what the barriers are that some of our students face.

In the past, historically, and in the present day as well, we continue to face a lot of situational and systemic barriers, and by "situational" I mean personal barriers, whether it be family dynamics, community dynamics, as well as systemic barriers within the actual system they're receiving their education from. So this can be family dynamics, as I said before; other barriers can include undiagnosed or misdiagnosed behavioural issues, inappropriate use of suspensions and expulsions, a curriculum that's not reflective of the diversity of the city that we live in and of our province as well, and a lack of adequate and culturally appropriate supports for students. So not just adequate supports—it's questionable whether or not those are even available at this point in time—but also culturally appropriate supports recognizing the diversity of our student body across the province.

In that sense and looking back at some of the things the community has said about this in the past, in terms of the African-Canadian community, we have argued consistently that there are a number of systemic barriers that have to be addressed if you're going to take steps to ensure that our students are going to be graduating from high school at higher rates, whether it's streaming, reduced expectations—and that's a very big thing, reduced expectations—or a disproportionate use of suspensions and expulsions. These have resulted in under-education and a lot of these students being actively pushed out of the system. Students who are being suspended constantly, students who are being misdiagnosed, are being pushed out of the system. So we have to question the issue of whether or not they're making these decisions themselves or if they're being pushed out and eventually making the decision given the circumstances they're facing.

What I'm trying to say is, it's not enough to treat the decision to leave school only as a personal decision that's devoid of any social context whatsoever. There are a lot of contributing factors, and it's necessary to devise supports for the students that are reflective of those particular concerns.

While requiring compulsory education till the age of 18 can be part of that strategy—the legislation delineates that aim, and I think that's what's interesting. It's basically delineating an aim without providing any particular strategy for being successful within that aim. In contributing to students' successful completion of high school, we have to commit resources. That's key. We've seen a lot of it in the papers lately. The education system right now is chronically underfunded. The prior speaker talked about the importance of having extracurricular activities, and we know as a fact that a lot of those activities are being cut by schools as they try to balance their budgets. In terms of ways to ensure that students stay in school, that's a critical way of doing it: making sure they have extracurricular activities and supports in

terms of counselling, in terms of adequate classroom sizes. Those are the things that help students to feel comfortable within their educational environment and become successful within it. So it's important in terms of what the government does, aside from this piece of legislation, and there are some concerns about it. People have articulated that.

It's important to ensure that we have decreased class sizes and to ensure that we have effective and accessible special education programs, culturally appropriate programs. Appropriate counselling and attendance services: This is something that has, unfortunately, been scaled back quite a bit in the last couple of years in terms of those people who are there to really counsel and help these students in making their decisions and how they're going to move forward in their educational lives.

The Chair: Just to advise you, you have about a minute and a half.

Mr. Moriah: Sure. No problem. Thank you very much.

Ultimately, really what I'm saying is that we have to make sure that we devise effective strategies so that all students, including African-Canadian students, are put in a position where they recognize the importance of and can make the most of their educational opportunities. Increasing the age of compulsory attendance may help them to understand the importance of staying in school, but without actually addressing the reasons why they drop out, the legislation is really symbolic at best. So, regardless of the rationale, punishing the symptom, which is what we're doing right here, is unsound. We need to think rationally about what we're doing and realize that instead what we need to do is devise effective strategies so that we can deal with the root causes of the problem. I hope that in the course of your review of this piece of legislation, you'll keep that in mind. I'm sure that you have thought about that as well.

The Chair: Thank you very much for your thoughtful and insightful comments. There is, unfortunately, not time for questions in this round, but thank you for coming today.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 6A

The Chair: OSSFTF, District 6A, Thunder Bay: Terry Hamilton. Good afternoon.

Mr. Terry Hamilton: Good afternoon.

The Chair: You'll have 10 minutes for your deputation today. If there is time remaining, it will go to the parties in rotation. Please begin by stating your name for Hansard and then proceed.

Mr. Hamilton: Thank you. My name is Terry Hamilton. I am the president of District 6A, Thunder Bay, of the OSSTF. I also notice on the list that I'm the only deputation, I believe, from northwestern Ontario today, and I'd like to thank the committee for giving me this opportunity to speak on behalf of both District 6A and, I believe, the north, around Bill 52, the Learning to Age 18 Act.

I'm going to highlight a couple of things. At the end of my presentation I'm going to be looking at some of the factors that I believe might be particular to the north. I'm going to start, however, by perhaps talking about some of the programs we have.

First of all, I believe that the intent of Bill 52 was to improve the educational level of our children, our students, by ensuring that they remain in school until they graduate from secondary school at the age of 18. The bill uses a carrot-and-stick method of encouraging those disengaged students to stay in school. The carrot was those alternative learning opportunities and enhanced experiential learning that more closely matches their learning styles and abilities. I think the stick was the removal of drivers' licences for students who aren't involved in a learning activity before they turn 18. I don't even know what to say about that. One of the first teacher instructors I ever had said, "Don't ever make education a punishment." That's all I'll say about that.

OSSTF members from across the province are aware of the benefits of achieving a secondary diploma. Those students who receive a diploma have a greater chance of securing a job and earning a greater salary. They also have the ability to move on to post-secondary education, allowing them to participate in an increasingly technical world.

OSSTF members across the province have worked to try to create programs for students who have been disengaged from the traditional school model to continue with their education. In Thunder Bay, there have been a number of pilot projects involving many partners, including the Lakehead District School Board. These projects have had the goal of increasing opportunities for students and helping them find their pathways to the future.

The projects in Thunder Bay, I think, however, can highlight both the strengths and the weaknesses of the dual credit programs. I want to emphasize, though, that all of the programs we have had so far in Thunder Bay have used certified secondary teachers for either teaching credits or monitoring co-op placements.

1710

The first program I want to talk about I believe was somewhere around an abject failure. The advanced automotive practices program involved hand-picking 14 students who already had an interest in automotive and showed some expertise in their secondary automotive classes. Prior to actually enrolling in the program, they wrote the evaluation of academic readiness for apprenticeship training test—I think they usually call it EARAT because it's easier than that mouthful—from the Ministry of Training, Colleges and Universities. All but one of those students was able to demonstrate that they had the academic ability. They actually scored higher than most apprentices when they start apprentice training. One student was perhaps on the bubble in terms of the fact that they would have to work very hard to be successful in this program. That was known before they went in.

The program basically was that students were earning four co-op credits at an automotive dealership from their home secondary schools. At the same time, there was an

eight-week block in the middle of this co-op where they went to the college and did the basic level apprenticeship training from college instructors. There was a secondary teacher who was monitoring the program. He tried meeting with the instructors, and when he met with them they said, "Everything is going fine. All the students are doing well. Well, maybe there's a couple of students who aren't doing so well." At the end of the eight-week process when the students finally got their marks, three out of the 14 managed to actually get the basic level training. The college instructors complained about the students being disruptive. They complained about their work ethic. I guess the difficulty was that they didn't even give the coordinator enough advance notice that these students were having difficulties—the secondary teacher was the coordinator—and to intervene on their behalf. I don't believe that those college instructors have the training or experience in dealing with adolescents. When the coordinator described the students' behaviour to me, it sounded pretty much like 17-year-old boys hanging around together. Most of our secondary teachers have had that experience working with adolescents. We have the training in working with adolescents.

I'd like to compare that program to the College Link program that is being run in Thunder Bay. I know that Mr. Peat in an earlier submission talked a little bit about their program in Niagara, which seems to be very similar. The College Link program was designed for students between the ages of 18 and 20 who have not graduated but who have at least 20 secondary credits. The program is actually housed at Confederation College. There are two secondary teachers working with those students; however, the students also have the opportunity to take a college credit. So not only are they working towards their high school diploma, but they're also managing to get at least one college credit when they finish this program. These were high-risk students. These are the students who Mr. McMeekin keeps talking about when he mentions those 45,000 students. Twenty-two of the 33 who were in the program last year graduated. Because you start with 20 credits, it's going to be awfully difficult to get 10 in one year. Some of them may have to go to other programs, and there are other programs in Thunder Bay for those students.

Bruce Ferguson, in his study into early school leavers, points to the inability of some students to make a connection as one of the reasons for those students dropping out of school. I believe the previous speaker talked about co-curricular activities, about sports and teams and drama groups and that. I think that is important, and that is one of the reasons why so many students stay.

For these students, however, their connection was largely with the secondary instructors who were in the program. They made a connection with that, they made a connection with the location, because they're in with their peer groups and they weren't older than everybody around them. I believe that that is why they're successful. So I believe that the success was because they had certified teachers who have training in dealing with adolescents, who have training in assessment and evalu-

ation, who have access to OSRs—Ontario student records—who have access to the individual educational plans of students and who also abide by the ethical standards and the standards of practice from the College of Teachers.

The Chair: Terry, just to advise you, you've got about two minutes.

Mr. Hamilton: I would like to have talked about the hospitality program, which is similar, but I'm going to move on to some of the northern Ontario issues.

The aboriginal issue is a concern of mine. Although we do not have a process for identifying aboriginal students at my board, we know that their numbers are growing. We have had students who've been moving in from those northern boards. They tend to have a lower ability in oral language, by about two years on average. They don't need to be in some external program. What they need is the supports from the teachers, the EAs, the paraprofessionals, the psychologists. I think that the ministry should be funding these students and their needs appropriately.

Also, in northwestern Ontario, we're experiencing a decline in the population of about 3% a year. That's not even talking about the fact that some of the mills in the area, the forestry industry, are certainly being affected. Already, we are closing schools. In my school board, they're going to be going from six schools down to four secondary schools by next year. I believe that if Bill 52 is passed, it's going to just exacerbate the situation.

I believe that Bill 52 is an attack on publicly funded education. I believe it's an attack on the equity of access. I believe that it creates educational vouchers. I believe it's an attack on the professionalism of teachers and educational workers. I believe that Bill 52 will do great harm. Bill 52 should be withdrawn.

The Chair: That concludes the time that we have for you. Thank you for coming in today.

MATTHEW CORNEY

The Chair: I am advised that a deputant who had not arrived earlier, Matthew Corney, is now here. Matthew Corney? Welcome, and have a seat. You'll have 10 minutes to make your deputation this afternoon. If you have any time remaining, it'll go to the parties in rotation for questions. Please begin by stating your name clearly for Hansard and then proceed.

Mr. Matthew Corney: Matthew Corney, representing Sterling Education, and my colleague Don Hardwick. First of all, I'd like to thank the chairperson and the committee members for hearing us this afternoon and giving us the privilege to speak on Bill 52.

As I said before, I represent Sterling Education. We're a Christian education organization with campuses across the country, including three here in Ontario. Although we're independent of the public system, we operate in line with the government's requirements, and our schools have been recognized by the government.

We applaud the government's efforts to encourage all students to complete their high school education in view

of a more prosperous future for the student and to help ensure that everyone's a vital contributor to the prosperity of this province. While supporting the government's noble efforts to ensure high school completion, we pause to consider the implications of withholding students' driver's licences and feel queasy about the government using non-education-related penalties to enforce this.

If this bill were to become law, it would be the first foot in the door of government-mandated regulation of what may or may not be taught, even eventually in private schools. Although it is surely not the intent of this government to move further in this direction, it does provide scope for a future education minister to demand compliance with what they may feel is required, irrespective of Christian teaching as set out in the Holy Bible.

It is alarming to note that this very week, the Quebec government announced plans to force Christian schools to teach the theory of evolution, which is directly against the laws of God and the teaching of scripture. As has been stated, we are assured that this government is not following in Quebec's footsteps, but this action does highlight the danger of where this could go should a precedent be established as to what you can do or cannot do to receive a diploma.

We stress again that we are desirous of strengthening the hands of right government and are continually exercised in prayer, both publicly and privately, that good government be maintained in this country.

1720

As the Apostle Paul says in I Timothy 2:1, "I exhort, therefore, first of all, that supplications, prayers, intercessions, thanksgivings, be made for all men, for kings and all that are in dignity, that we may lead a tranquil life in all piety and gravity for this is acceptable before our saviour, God." We would humbly suggest that the government explore other means to ensure high school completion by way of incentive rather than penalty.

In closing, we would simply ask you to consider the long-term ramifications of the proposed bill, and to ensure that we are not blazing a trail that may lead to the suppression of Christian conscience and a denial of religious freedoms. Thank you for your time.

The Chair: We may even have a chance for each party to ask you a question, if they choose, beginning with Mr. McMeekin.

Mr. McMeekin: Thanks for your presentation. I've been a long-time supporter of faith-based education for those who choose it, just for the record.

I'm wondering if you could just share with me your last line. I mean, the driver's licence stuff we're going to have to deal with, obviously. There's been a lot of stuff on that and we will deal with that. But the issue about the suppression of Christian conscience and denial of religious freedom—I don't think there's anybody in this room who wants to do that. So I'm wondering if there's something specific in the bill that you think will lead to

the suppression of Christian conscience and denial of religious freedom?

Mr. Corney: I can speak generally and maybe my colleague could speak more specifically on it. There are a number of changes in the bill, when I looked at it, that would appear to change and shift some power to the Minister of Education. That was my general concern.

Mr. McMeekin: Okay.

Mr. Don Hardwick: I was just brought into this to support Matthew in his presentation. I'm a member of the board for our school in Burlington. What bothered us was that in the inspection of the schools we found that because of the fact that we wouldn't teach certain things, we were not considered a school that's giving an equivalent education. That's our concern, and then—

Mr. McMeekin: This bill doesn't deal with any of that—

Mr. Hardwick: Well, that's what we're concerned about, that equivalent learning does come into it.

Mr. McMeekin: Let me just provide assurance that that's not the intent of the bill. I think there may be some constitutional things that have been in the news recently that will need to wind their way through whatever process, but this isn't the process.

Mr. John Wilkinson (Perth—Middlesex): Briefly, Mr. Chair, just to add to that some context. Of course, for the provincial government to pass any law it must be compliant with the Charter of Rights and Freedoms. So there is no bill that can be drafted by this Legislature and passed where there would be any opinion that it wasn't constitutional, though that doesn't mean that others may not challenge it. But it is required in Canadian law. So I know you might look at that and say, "Is this some thin edge of the wedge?" But I'd hazard a guess that it is not the intention of the government to challenge the Charter with any piece of legislation.

The Chair: All right. Was there an observation you wanted to make on Mr. Wilkinson's comments? You would have the last word on this one.

Mr. Corney: My only comment is that the driver's licence seems to be the most obvious part of it that everyone is contending. But I'm just not sure in myself. I'm not restful in the subtleties of the other changes in the bill as to what the interpretation of those would be.

The Chair: Okay. Thank you very much for taking the time to come in and make your deputation with us this afternoon.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, LIMESTONE DISTRICT 27

The Chair: OSSTF, Limestone District 27—Steve Newstead.

Mr. Steve Newstead: First of all, I hope my voice holds up throughout this.

The Chair: All of the people here hope so as well. The microphones are pretty good. You can speak very softly.

Mr. Newstead: My name is Steve Newstead. I'm here kind of wearing several hats today. I'm here as a teacher, I'm here as a parent, and I'm also the president of the teachers' bargaining unit of OSSTF, Limestone district 27. Limestone district 27 is Frontenac county and Lennox and Addington counties down at the eastern tip of Lake Ontario, in beautiful Kingston.

Over the last four years, the Ontario Liberal government has embraced public education with the infusion of much-needed financial resources and reform. It's with dismay and disappointment that I felt compelled to make this trip to Toronto today to present my concerns regarding Bill 52 to this committee.

There's one aspect of Bill 52 that I possibly could support, and that's increasing the school leaving age to 18. I'm hopeful that this legislative change, if made—and I want to underline “if,” because I'm still not totally sold on it—implemented properly and supported by the educational workers, will result in declining youth dropout rates. Punitive measures such as fines and withholding or suspending a driver's licence are not necessary.

That said, I find several aspects of Bill 52 relating to dual and external credits extremely distressing. The passage of such legislation will be a major step backwards for public education. It will bring us one step closer to the privatization of our education system. I have heard repeatedly in meetings with Liberal cabinet ministers that the Premier of Ontario wants to be known and remembered as the education Premier. Bill 52 does not represent that vision.

As a former apprentice and licensed tradesperson in Ontario, I left my trade of choice and entered education. I certainly didn't leave my trade because I wanted to earn more money; I actually took a significant pay cut. I entered education because I wanted to make a difference in kids' lives, encouraging each of them to work to the best of their ability and help them earn their Ontario secondary school diploma. I wanted to give back to public education what it gave me: confidence, acceptance, drive, desire and so on, as well as the ability to choose a career path and become a contributing member of society. This path to success is still fresh in my mind. I remember many of my classroom teachers and the support they gave me. While attending trade school, community college and later the faculty of education, I still consulted with my past secondary school teachers for guidance and advice.

What I fear is that Bill 52 will impose drastic changes to the delivery of secondary school credits in Ontario. Currently, secondary school credits are delivered by certified teachers of Ontario who know the Ontario curriculum and the appropriate evaluation methods attached to it. Ontario's teachers must currently attend a recognized faculty of education and be members of the Ontario College of Teachers, our professional college. I ask, why would the government want to allow Ontario secondary school credits to be delivered by non-certified, unqualified individuals? Why would the Ontario Liberal government want to entertain the idea of having credits delivered by private businesses or special interest

groups? This was a Conservative vision, I hope not a Liberal one.

Currently in my district, the Limestone District School Board, our full education team is a success story. Ask Minister Gerretsen: His son is one of our success stories. OSSTF members currently demonstrate their innovation and dedication through many of our unique programs. Many years ago, we began running focus programs, programs structured to specific areas such as the building trades, where students work with local contractors under the direct supervision of a certified teacher to build a house. We are currently building several houses a year with our partners. We also offer intensive full-day multi-credit programs in manufacturing, automotive, culinary arts, hairdressing, cosmetology, upholstery, marine—and the list goes on. I personally built a recording studio and ran a four-credit sound recording and production program. I'd like to note that each of these credits is 110 hours in length, not 45 hours to 65 hours as we see in our college system. We also have several Ontario youth apprenticeship programs up and running. These programs are designed to help kids stay in school, offer them an alternative education structure and tend to draw a large number of at-risk kids who otherwise may not stay in school.

1730

In the mid 1990s, the Conservative government had a great new curriculum reform idea called broad-based technology. I feel that this was implemented to reduce the investment required to maintain technology programs and shops. During this period we saw technology shops closed and the equipment sold off for scrap. It was replaced with Popsicle stick and glue-gun technology.

We are now facing a major shortage of skilled trades workers in Ontario. It's imperative that Ontario's students are introduced to many of these trades in secondary schools. I thought the Liberal government was on the right track. Bill 52 takes us in the wrong direction.

Let us not kid ourselves. Provincial funding is directly tied to students. If you allow Bill 52 to pass and provincially funded credits are offered outside the public education system, we will see funding cuts, layoffs, and our crumbling infrastructure will continue to deteriorate. The previous government nearly destroyed public education in Ontario. The current government made a pledge to rebuild it.

The Ontario education system is currently working, and working well. Bill 52 is not the answer to improving public education, and I fear it will take kids out of school, not keep them in it. I'm requesting that you withdraw Bill 52. Thank you.

The Chair: Thank you very much for your deputation. Questions?

Mr. Klees: Thank you. I appreciate your presentation. It's interesting: I appreciated the fact that many of the presentations today reference the fact that in order to do the equivalent, education programs really don't need this legislation.

Mr. Newstead: They absolutely do not.

Mr. Klees: It's really redundant.

It was actually the previous government that brought in the framework, as referenced by OSSTF's submission, the Ontario secondary schools grades 9 and 12 program diploma requirements in 1999 that set out the locally developed courses of school work, transition programs and so on.

Given the fact that the framework is there to do what needs to be done—and I think what I hear you saying is that if the government were simply to put the resources into the programs and the framework that's already there to expand and strengthen them, which would be consistent with the commitment the Liberal Party made during the last election, that would solve the problem.

I'd be interested in your thought, as you contemplate what the Liberal Party said they were going to do and then this bill, which seems to be a total about-face in terms of ideology and certainly in policy. What could possibly be behind this Bill 52? Why would they do this?

Mr. Newstead: Whether it comes down to money, I think there is no doubt—I'm sure there are other individuals lobbying to deliver Ontario secondary school credits outside the public school system. Why you would want to go in that direction, to be honest with you, I have absolutely no idea. If you're entertaining the idea of going to publicly funded, religion-based education or publicly funded interest group education and so on, I'm at a loss for words.

Mr. Klees: Here's something very interesting. You see, the previous government, regardless of what you might think of it, did not go that distance, which is why this government needs to bring in legislation now, to open up that door so that unqualified people can provide this kind of instruction in these equivalent programs. We oppose that. We believe very strongly that we need qualified people in the classroom. So we've been calling on the government not to try to fix this, because we believe it's unfixable. What they should do is simply withdraw this and replace the bill—

The Chair: Steve, you get the last word on this.

Mr. Klees: —and replace the bill with a cheque, which is really what you're saying, which is what we hear the teachers' unions calling for because they're realizing that there's a huge shortfall in terms of program commitments and actual funding that's going into school boards.

Mr. Newstead: And if this bill passes, I guess we no longer need faculties of education, I guess we no longer need Ontario teachers' certificates and teacher qualifications, and I guess we no longer need the Ontario College of Teachers if those qualifications don't mean anything.

The Chair: Thank you very much for having come in today and delivered your thoughts to us.

SIR WINSTON CHURCHILL
SECONDARY SCHOOL

The Chair: Sir Winston Churchill Secondary School, Hamilton: Susan Pretula. Welcome. Please make yourself comfortable. You'll have 10 minutes to make your remarks to us this afternoon. If you leave any time re-

maining, it will go to the parties in rotation. Please begin by stating your names for Hansard, and then proceed.

Ms. Susan Pretula: My name is Susan Pretula, and to my right is my daughter Nicole Pretula, a 17-year-old student in grade 12 in Hamilton. I am currently the school council chair for Sir Winston Churchill Secondary School in Hamilton. I'd like to thank you all for the opportunity to speak on behalf of the parents of my school as well as the many other parents that I liaise with on a daily basis in Hamilton. My involvement in volunteering is quite extensive and I will not give a list of my affiliations, but suffice it to know that I do speak with many a parent. Bill 52 has caused a great stir amongst us, and a genuine fear.

As a 23-year volunteer within Hamilton-Wentworth District School Board, I have been witness to many changes in education, and I am quite honestly shocked about Bill 52 and the dire consequences which will result if this bill is passed.

I will begin my time by briefly commenting on the section of the bill which suggests that drivers' licences could be tied to school attendance. While this theoretically may deter some young people from dropping out of school, I would like to inquire as to how realistically this scenario can possibly be played out and who is going to track it. On a daily basis, I see how incredibly busy administrators and support staff are. When are they possibly going to find time to oversee and track this piece of legislation? Their jobs are complex enough as it is; they certainly don't need another layer built into their administrative duties. Let's use the resources that are already in place for students' retention and expand those existing programs with a meaningful infusion of money, as opposed to implementing punitive measures to retain students in school.

Now on to the most controversial aspects of Bill 52 for myself and many others.

I and many other parents have passionately witnessed the evolution of the secondary school system. We all lived through, I'm sorry to say, the horrors of Bill 160 and bore witness to those teachers who passionately withdrew their services to demonstrate their alarm at that bill. Now we as parents are moved to loudly demonstrate our concerns against this bill and to preserve the integrity of the teaching profession in Ontario.

This bill strikes at the very core and integrity of our school system and the professionals who work diligently to uphold those values. The vision and expectation that I have for my child's secondary school diploma does not include a portion for—excuse my analogy—"drive-through credits." Our children need to be assured that their hard-earned secondary credits have been delivered and subsequently graded by the highly professional teachers that we have in Ontario.

This is yet another example of contradictory messages that governments present to our parents and students. One moment they want teachers to go through a re-certification process to prove their teaching credentials, and then, by a flip of government, we are now going to

have non-certified instructors grant credits to our students. Surely, even with differing fundamental ideas and political ideology, and regardless of which side of the Legislature you sit on, one can see how impractical and illogical Bill 52 is.

I cannot believe that this government would stoop so low as to now legislate the outsourcing of the very fabric that holds this system together: our teachers. Where is the integrity of the province's educational system heading?

According to my calculations, close to 30% of my child's credits could potentially be earned externally. Why are we reinventing the wheel when an existing system is already in place for equivalent learning?

Bill 52 contains no standards; it just vaguely alludes to future guidelines which will be developed by the minister. This in turn would once again download the nasty decision-making on policies and procedures to individual boards. That in turn would allow for inconsistent practices province-wide.

I am strongly urging you to reconsider and allow our secondary students to be able to hold up their diplomas proudly and know that they were obtained with the guidance, support and professional expertise of highly skilled teachers. Do you honestly believe that if our secondary students were to apply to one of our prestigious universities, such as, of course, McMaster, U of T, McGill or Queen's, or even possibly abroad at Harvard or Oxford, that those institutions would actually recognize or value those eight external credits as being legitimate? I think not. I have friends who work for university admissions offices and they have shuddered at the thought of these types of acquired credits.

1740

What are we really telling our students? Our public education system has gone through extensive changes over the last century, but mostly dramatically, I believe, within the last 10 to 15 years. I never expected this type of legislation to come from this sitting government. Will this bill really help to facilitate the ministry's goal of achieving an 85% graduation rate for our students, which has been highly touted and widely promoted? To what end are we willing to go in order to achieve that artificial goal? Is achieving that lofty goal more important than preserving the integrity of our teaching profession?

When I went to school, teachers were revered. I guess I was premature or naive in believing that we were at long last heading into an era of stability and good faith between all of the education stakeholders. What has happened to the entire institution of education and the deeply rooted respect that our society has traditionally held for teachers? What's being fundamentally said when this government proposes to legislate a bill which would negate a teacher's professional value and further erode societal respect?

As a parent, I want—no, I demand—that only qualified teachers teach my child. Our students have the right to expect and receive their formal public education to be delivered by qualified and certified teachers, not instructors. What will happen to the entire integrity of the

teaching profession if uncertified people are delivering equivalent credits?

Has anyone really thought about the liability involved with having these uncertified and unqualified instructors deliver programs to our children? Who is going to protect our children? How will students and administrators blend these two modes of delivery? What about the support services that greatly assist in the students' learning? As mentioned several times previous to myself, we all know that 110 hours is the requirement for obtaining a credit. That's not going to be the case with equivalent credits. What type of assessment will be offered to guarantee that students have achieved the curriculum requirements? Teachers are the only approved body which can guarantee that my child will receive an approved delivery of the government's curriculum expectations.

I never thought it possible that our teachers would have to now worry about their jobs being outsourced. And I never, ever thought that I would have to worry there would come a day when my child was being instructed rather than taught. Would you want your surgery to be performed by instructors if the Ministry of Health told you that they were safe, or would you demand to be treated by qualified, certified surgeons, who, through rigorous schooling and testing, were able and accountable to a professional organization? The same holds true in educating our children. I don't want second-best, I want the best. Teachers, not instructors, are parents' only legitimate choices. So why would we now allow for our current system to be dismantled? I truly believe that this will be the start of a voucher system in the province. That is not my vision for an Ontario public education system.

Our children expect and deserve much better than what is being proposed in Bill 52. Some day these same students who have had these types of decisions forced on to them will be the same ones who will be making decisions about our future. Do we really want that? Will we be able to honestly expect them to make good decisions based on moral and ethical platforms that weren't taught by qualified teachers?

It's already possible within the legislation to increase and expand equivalent learning programs through the document Ontario Secondary Schools, Grades 9-12: Program and Diploma Requirements, 1999.

Before I conclude with my closing statement, I would like to say that my daughter became gravely ill last year. If it wasn't for the support from teachers—not instructors—who went above and beyond to help my child achieve proficiency standing while she was in a hospital for almost an entire year, so that they could support her in her education—those are the professionals I want, not an outside instructor who doesn't care that my child would only be a number. Sorry.

Bill 52 is not necessary. Please seriously consider the negative consequences of moving this bill forward. It does not need to be amended, but, rather, withdrawn. Ontario students need you to make good and informed decisions for them. We have all had the opportunity to be

taught by certified teachers. Please don't give our children anything less now. They deserve so much more.

The Chair: Thank you, and almost to the second. You timed it perfectly. I'm sure Mr. Tabuns would have loved to have asked you a question—

Mr. Tabuns: With the indulgence of the Chair and the committee—

The Chair: With the indulgence of the Chair? Only if you'll indulge the Chair by keeping it really short.

Mr. Tabuns: It will be really short. I was a student at Sir Winston Churchill when it opened. I was very young at the time, very young.

Mr. Tim Peterson (Mississauga South): And it still survives.

Mr. Tabuns: And it survived. The parents then were extremely active. I'm glad to see the tradition has continued. Thank you very much.

Mr. McMeekin: I coached soccer there.

Interjections.

The Chair: Thank you very much for having come in. And if I were you, I'd be sending these two alumni donor letters.

Ms. Pretula: Well, that's an excellent thought. Thank you very much.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 12

The Chair: Our last word this afternoon comes from OSSTF, district 12, Ken Jeffers. Thank you for sticking with us this afternoon. If you've been here for a little while, you get the general drift of things: You've got 10 minutes to—

Mr. Ken Jeffers: I think I've got the routine, yes.

The Chair: Okay. The time is yours. Please proceed.

Mr. Jeffers: All right. Thank you very much. I'm Ken Jeffers. I am the president of the professional student services personnel of OSSTF, district 12, Toronto. The professional student services personnel, for those of you who don't know, make up front-line student support service staff in the Toronto school board. We represent psychologists, speech pathologists, audiologists, occupational physiotherapists, social workers, child and youth workers, and so on.

Bill 52 is of particular interest to us because in many ways we are living what I perceive to be a reality of what external and dual credits could do to secondary teachers, and that is, outsourcing and privatization. In fact, I've nicknamed Bill 52 the penalties and privatization bill. I think that's probably the best way to sum it up.

I'm going to talk to you a little bit, first, about an administrative education report—a few people have mentioned it already today—from Dr. Bruce Ferguson, the Early Leavers Report. One would think—in a bill on learning to age 18 in Ontario—that the recommendations captured in that report, which only came out last year, would build the framework for what this bill should be about. But, surprisingly enough, the bill is absent of

almost all of the recommendations in that report, and I just want to touch on a few of them.

Dr. Ferguson starts out by saying, "Schools and educators need to be more understanding," and lists a whole bunch of things like "listen," "understand," "recognize" and "accept differences of students." I don't understand how that could even have factored into the imagination of someone who conceived of penalizing students for lower attendance in schools. "Be more flexible"—and in that section he talks about developing a more local-based curriculum. "Disciplinary alternatives"—this is mentioned in expulsion. "Creating improved interprovincial coordination and international assessment of curricula and educational standards," which really flies in the face of what's being proposed in this bill. Lastly, "being more proactive"—he lists a number of recommendations. Some of them are what you would think would be fairly obvious when you're talking about keeping students in school to 18, and it's providing sufficient and appropriate resources for assessment counselling and social service intervention, which is mentioned nowhere in the bill, nor has it been in any of the student success initiatives that have come out of this government in the last number of years. Really, the focus has been on educators to the exclusion of front-line support staff, who work on a daily basis with youth at risk and the hard-to-reach youth whom this bill is attempting to address.

The strange thing about Bill 52 is now it seems to be opening up the attack on teachers. Let me talk a little bit about my experiences in Toronto as president of PSSP and our experiences with outsourcing, which I think directly link to what we will see as a result of dual credits and external credits being offered, as they're outlined in Bill 52.

In Toronto, you may or may not know there are dozens and dozens of external service providers which, on an ad hoc basis, provide programming to schools. Almost all of those are funded by various ministries of this government and over the last three years have been encouraged to set up access points in school boards. In most cases, they don't work closely with school board administrators, let alone the front-line workers who are already providing those services in school boards. At no point has there been a discussion with the school board or the school board administration for student services about what would be needed to address and help students in the Toronto District School Board in terms of additional funding for the board itself. Rather, there have been satellite projects, if you will, that have made fine announcements in the media and in newspapers, but actually, in terms of a continuum of services and sustainability, they don't fit with what is best and what is needed for students in the Toronto District School Board.

1750

Further to that, and perhaps what has been most alarming to both the board and ourselves, is the erosion of the quality of those student services because they are being provided cheaply by people who are not members of registered professional colleges. They're not neces-

sarily subject to an annualized criminal background check, their programming doesn't necessarily fit with existing programs already in the school board and they have almost no familiarity with the education system or the curriculum which they would be normally interacting with in terms of delivering the best available help for students. The board has identified this as a problem, as we have, and we've worked together to help develop some kind of protocol to attempt to stem the tide of this erosion and build a system standard back in, with both external service providers and the current members who are providing that work on a daily basis.

This is where I see external and dual credits leading: If you are going to have external and dual credits, with absolutely no established regulations or standards and not being provided by Ontario College of Teachers teachers, you are opening yourself up for the exact same thing we have seen and experienced and now are fighting to change in Toronto, and that is a slow and obvious erosion of quality public education.

Just to draw on a few more aspects and be a little more specific, the idea of students doing external credits, outside of the school system, and taking the package of funding along with them—so for each credit course, taking the funding dollars associated with that to an external service provider, when everyone seems to have acknowledged thus far that the funding formula is broken and needs to have some major revamping and a review process. I can't understand why, in any good conscience, the government would want to take a broken funding formula, which already doesn't address the economic needs of school boards, and move that money outside to external service providers, unless of course there are some savings for them in it. I suppose maybe that's the direction that we're seeing here, because I can't think of any other reason why.

If this is an attempt to match students—and I mean those high-risk students we talked about, the ones who are at risk of dropping out of school—with more relevant curriculum, it seems to be a rather effortless attempt on the part of this government. It doesn't show any kind of investment in curricular reform. What it shows to me is that it's downloading and privatizing what may be

relevant curriculum to a student but certainly may not be relevant, quality curriculum in terms of what the student is used to getting in Ontario's high schools today.

There's also, obviously, linked to this curriculum—and we've seen this in voucher systems throughout the United States. It's not a drain of the students who are at risk, who are leaving the system. They're usually the ones who suffer the most, because they remain behind, if at all, and the support services that would normally be there for them can't be funded anymore because the credit dollars are leaving out the door with the highest achievers, who are taking advantage of external opportunities. Of course, that leaves you with the high-risk students still in school, and they often end up being streamed into programs which might be external but certainly won't provide the same opportunities that they would be assured of if they had graduated under the current Ontario secondary school diploma.

Lastly, really, this just seems to be an abdication of the government's responsibility to ensure equity of access and a fair and quality public education for all students in Ontario by downloading to local businesses or the community, to be external service providers for external credits and alternative credits.

I just think that the bill needs to be withdrawn. It will hurt students in the end. I can't see any good coming of this bill.

I thank you for your time. If there is any time left, I'll take some questions.

The Chair: I'm afraid you've used up all of your time. I thank you very much for having come in today.

There have been a number of people who have stayed with us all afternoon. I asked the researcher, "How many briefs have we heard today?" We've heard 31 briefs. Everybody had their say. Every deputant cared passionately, and certainly many of you went the extra mile to come here. This is advice to the ministry. You've all spoken very clearly, articulately, eloquently and stayed on time, and done so in good humour.

On behalf of the committee I want to thank everyone who has taken the time to come in here today. The meeting is adjourned.

The committee adjourned at 1757.

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Mr. Peter Tabuns (Toronto-Danforth ND)

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Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 2 November 2006

Journal des débats (Hansard)

Jeudi 2 novembre 2006

Standing committee on the Legislative Assembly

Education Statute Law
Amendment Act
(Learning to Age 18), 2006

Comité permanent de l'Assemblée législative

Loi de 2006 modifiant des lois
en ce qui concerne l'éducation
(apprentissage jusqu'à l'âge
de 18 ans)



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 2 November 2006

Jeudi 2 novembre 2006

*The committee met at 1610 in committee room 1.*EDUCATION STATUTE LAW
AMENDMENT ACT
(LEARNING TO AGE 18), 2006LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION
(APPRENTISSAGE JUSQU'À L'ÂGE
DE 18 ANS)

Consideration of Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act / Projet de loi 52, Loi modifiant la Loi sur l'éducation concernant l'apprentissage des élèves jusqu'à l'âge de 18 ans et l'apprentissage équivalent et apportant des modifications complémentaires au Code de la route.

The Chair (Mr. Bob Delaney): Good afternoon, ladies and gentlemen. This is the hour I'm sure we've all been awaiting. Our order of business today is Bill 52, An Act to amend the Education Act respecting pupil learning to the age of 18 and equivalent learning and to make complementary amendments to the Highway Traffic Act.

Members have before them a package of motions that have been received in the office of the clerk. Are there any additional motions that a member would like to table at this time? Are there any comments, questions or amendments and, if so, to which sections?

Mr. Rosario Marchese (Trinity-Spadina): I guess this is our opportunity to speak to the bill, and I simply want to put on the record that New Democrats have been opposed to this bill from the very beginning. That's why we offered no amendments. We don't believe we can fix a bad bill.

We believe that if you fixed the funding formula and brought back some of the programs that we've lost, such as industrial arts programs that have virtually disappeared across the province; technical programs that virtually have disappeared across the province; if you brought back youth workers who worked with kids at risk, you would be helping those kids who desperately need the help from an early age, as well; if you brought more guidance counsellors into the system it would really be helpful; if you brought more English-as-a-second-

language teachers into the system, it would really help kids who desperately need it.

We have more students without ESL teachers under a Liberal administration, and the facts are obvious. Mr. Kennedy used to accept People for Education reports as factual. I'm assuming this government accepts them now. They report that we have more students in the GTA coming from out of the country who do not have a teacher, and it is worse today than it was under a Conservative administration, and it was bad then. Imagine how bad it is today.

We have special education problems that have not been fixed by a Liberal administration. If they did that, kids at risk would be helped. It is reported by People for Education that there are still 40,000 students who have been assessed and waiting for services. They report that there are still students who haven't gone through the identification placement and review committee because in some parts of the province we don't have the staff to make those assessments, meaning that kids at risk are not getting not only the identification they need to be able to provide the program but they're not getting the programs, meaning that those kids who don't get the help they require get pushed ahead without any of those preventive measures that would help these students. Unless we fix the funding formula that would permit boards to have these kinds of additional resources, we're always going to put students at risk.

So, rather than expanding the programs that we have now and making them more effective, and rather than bringing back many of the programs we used to have in high school and at the elementary level that would give those students an opportunity to be able to have alternative programs, we simply have destroyed all of that and are now saying we want to be able to provide alternative programming for students outside of the educational system. We'll debate your amendments for sure, but what we are arguing with is whether or not those programs are going to be taught by teachers—and we'll ask you those questions when you introduce your amendments—whether or not those students will have to pay fees, and whether or not you can guarantee that the kinds of programs they're going to get will be equal to and/or better in terms of what the current system is providing.

We object to this bill fundamentally. We do not believe that you can fix the problem the students have

had for 16 years at age 17 or 18. You cannot do it, unless you fix the social, economic, psychological and educational problems the students have, starting in the primary grades and go on to grade 12. If you do not fix those problems during that time, it means that it becomes very complicated to do anything with them at age 17. Does it mean you shouldn't try? No; absolutely you should. But I disagree with your bill that forces students to stay until age 18 no matter what.

You clearly have made some amendments where you were going to fine parents, and you moved it from the old Tory days of 200 to 1,000 bucks; now you're going back. Clearly, you realize you were being not too intelligent in that regard, so you're going to make that amendment. Clearly, you were going to fine the employers who wittingly or unwittingly were hiring people who should have been in school, based on this bill, and you were going to fine them up to 1,000 bucks. It went up from the 200 bucks the Tories had it to 1,000 bucks; you're amending that.

Clearly, you've been beaten up by wise, intelligent deputants and others who have written to you, saying to you that to get rid of the licence for students who haven't completed their degree was not a terribly bright idea, and you have dealt with that in your amendments.

The only thing left is, are these equivalency programs going to be taught by certified teachers? This is the question that is still unclear, and I wait for the amendments to be read to see what you have to say. So that is the only thing left in terms of any possible amendment that might do something with this bill in terms of saving face with the teacher federations. I don't believe you're going to deal with this in an adequate way, and I don't believe the teachers are going to be very happy with you. Some of them might be okay with some of the amendments you're introducing, but I believe they're going to be as angry as I am.

I am angry at the fact that you're introducing a very unintelligent bill that was worthy of the Conservative Party but not really worthy of the Liberals. So I have a different beef with you in general, but I do agree with teachers that these programs should be taught by certified teachers, and I think they should be, by and large, in the educational system. You provide a lot of these programs, such as co-op programs, youth apprenticeship programs and other alternative programs; you provide them now. Why not expand these programs, if you believe they're working? Why not expand the programs you've got now? You can do that under the current legislation without having to bring in another bill that will force students to stay until age 18. You're dead wrong in this regard. I believe that parents are on our side, and I believe the majority of teachers are on our side in terms of taking this view.

We oppose the entire bill because it cannot be reformed in any meaningful or intelligent way that I can see. So I wanted to introduce those remarks as a way of telling you that we did not introduce amendments because we cannot fix a bad bill.

Merci.

The Chair: Bienvenue. Thank you very much.

Mr. Frank Klees (Oak Ridges): I'm happy too to make a comment.

We did submit some amendments, because we know how this government works; that is, they certainly wouldn't accept our recommendation to repeal the bill, so they'll forge ahead. We wanted to get on record that, at least with some aspects of the bill, we feel if we can help to shape some of it we will have done our job.

1620

There's no question that this bill is historic in the sense that, in the time that I've been here, there has never been a piece of legislation presented through the public hearings process where there has been such consensus among stakeholders that it's bad legislation.

Interjection.

Mr. Klees: There has never been a piece of legislation, Ms. Mossop, in the time that I've been here, which is a little longer than you, where there have been so many stakeholders coming forward and saying, in all sincerity, "Look, you've made a big mistake here. This is impractical. It won't work. It's counterproductive, and please repeal the legislation." Every stakeholder, from teachers' unions to home schooling groups to parents to students, has appealed to this committee and to the government to repeal this legislation.

I was hoping, following the introduction of this bill by Mr. Kennedy, that Ms. Papatello, as the incoming education minister, would take the opportunity to turn the leaf and do exactly that; she didn't. Now we have the third education minister within just a few weeks of Ms. Papatello's appointment, and she missed the opportunity as well. So we will proceed to listen to the government.

I think it's fundamentally wrong because it's not needed. There isn't anyone in this room and there isn't a member of this Legislature who doesn't agree with the preamble to the bill. Who doesn't want kids to stay in school till they're 18? Who doesn't want our kids to get the best possible education? Who doesn't believe in alternative learning, in terms of ensuring that young people have a curriculum and have opportunities if they're more technically inclined, for example, to pursue those studies. But the reality is—and we heard it in submissions—that those opportunities are already available in the province today and some very excellent programs are being delivered throughout the province by various school boards, so what we don't need is another piece of legislation to enable that; we simply need the resources being provided to school boards and to teachers to expand those programs and make them available, to search out the best practices across the province and to implement those.

What we have here, really, is what we said it was from the beginning, and that's an attempt on the part of this government to, I think, in one way, shoehorn its way into one of the commitments it made, and that is to achieve a 75% pass rate.

We also heard from many witnesses here that what is inherent in this bill is that the standards are going to be lower; that, through the provisions that basically open the door to instruction taking place by unqualified instructors, the diplomas that will be issued are not going to be equivalent at all and that a grade 12 diploma is not going to be a grade 12 diploma; it will get to the point in this province where employers won't know what standard of education students have when they pass through the other side of this. It's wrong.

With regard to the issue of the licence suspensions, again, I don't recall one presenter who agreed with that provision. I also know—and I won't embarrass any of the members of the government here—from speaking to other members of the Liberal Party and backbenchers that they agree that it's wrong and it's not the right thing to do. They were hoping that the minister would at least repeal that part of the bill. I would have applauded that. But I can see from the stack of amendments that we have that that's missing too. So we forge on, and we keep that punitive, impractical, impossible-to-enforce provision. I don't understand, but we'll proceed, and we will rest our case, having made every effort to point out that this is bad legislation, that it should be repealed in total, and predict that it is just one more level of bureaucracy that is not going to do anything for education.

The Chair: Thank you. Mr. McMeekin, please carry on.

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Just by way of brief comment, learning is clearly a lifelong process. This government prides itself on its willingness to listen to and to learn with its partners and then to act in what it believes is the best interests of our students. Mr. Marchese made a number of good points about some of the things we need to be doing. I would just respond by saying quickly that the government has taken leadership in many of those areas. Mr. Klees has made some comments which I appreciate—some, predictable. I think, when we get into the amendments, you'll see that some of the concerns that you've listed have in fact been addressed.

The minister specifically asked me to take a minute at the outset to offer a particular word of thanks to all those who made presentations during a very elaborate and elongated public hearing process, and to specifically thank our educational stakeholder partners who fortunately have chosen to work with the government—through the working table, the Student Success Commission and other vehicles; a lot of meetings with the minister, parliamentary assistants and others—to try to enhance this bill. I think, by the time all the dust settles today, the bill will be dramatically enhanced.

As members may know, the Ontario Secondary School Teachers' Federation have a students-first plan which is really excellent, by the way. I don't think there's anything in the plan that the government doesn't fundamentally concur with. They had a news conference earlier today where they said some very positive things

about the changes that were being proposed by the government in its amendments.

Just a moment ago, I was handed a news release that came out at 3:54 this afternoon from the Ontario English Catholic Teachers' Association, which I'd like to just quickly read—it's short—into the record, and then I'll cease my comments. It reads as follows: "OECTA Applauds Student Success Strategy"—November 2 etc.

"Ontario's Catholic teachers are endorsing the McGuinty government's strategy to help students at risk stay in high school until they graduate.

"Members of the Ontario English Catholic Teachers' Association ... applaud the plan to match individual students' strengths, interests and career goals," says OECTA president Donna Marie Kennedy.

"We agree that all secondary school students deserve an equal opportunity to graduate and that the government is prudent in taking steps to remove barriers that impede success for those at risk."

"Bill 52, also known as the Learning to 18 Act that supports the student success strategy, is expected to be passed into law before Christmas.

"Donna Marie Kennedy says that the strategy has a better chance of succeeding because the government is working with all the stakeholders to make the legislation relevant to students and parents and the community at large. 'The government heard teachers' concerns about maintaining the integrity of the secondary school diploma. We look forward to working with the government on the details of implementation.'"

We've struggled to make the meaningful and intelligent changes that member Klees has spoken to. I think the amendments presented by members of this committee will enhance this bill and will help us to together celebrate our greatest resource, and that's our young people.

1630

The Chair: Thank you very much.

On section 1: Comments, questions and amendments?

Mr. Klees: I move that the definition of "driver's licence" in subsection 1(1) of the Education Act, as set out in subsection 1(1) of the bill, be struck out.

The reason for this is that, as I stated at the outset, we believe that the entire section related to suspension of driver's licences should be struck. We have to, of course, deal with that at the end of the section when we come to that, but the reason I want to propose that we remove this definition is that if there isn't a section dealing with driver's licences, then we don't need a definition for driver's licences. So I was hoping we might get support from the government right at the outset and we don't have to worry about the rest of it.

I want to take a minute to just make this point in speaking to this amendment. I want to read to you from a submission that was presented to the committee by the OSSTF on the issue of the enforcement via driver's licences:

"While OSSTF members support the goals of the act to motivate all students to stay in school, continue

learning and earn a diploma, we were totally surprised by the heavy-handed enforcement provisions that were placed in Bill 52. These provisions will prove difficult, if not impossible, to implement, and will sour parents and students alike on the program. Instead of parents supporting a laudable educational initiative, they are criticizing the 'Big Brother' approach the bill takes."

Then they go in their submission to give several practical reasons as to why the OSSTF does not believe that this enforcement mechanism will work. They talk about the administrative problems. They talk about the punitive aspect of it. They talk about the challenges that students in rural areas and in the northern parts of the province will have, and that the plan punishes only those who don't yet have a driver's licence. If a student moves quickly to get a G1 licence, they suggest, after turning 16, and then drops out at age 17, there will be little deterrent value. In short, they are suggesting that, notwithstanding the good amendments that we're going to be dealing with later relating to educational standards, that this—and I have not yet heard any support expressed by any stakeholder for this provision of the legislation.

I want to make one more point. We have hundreds of these, but I think it's important as we move forward that we have a sense that the government fully understands how wrong-headed they are in pressing forward with this aspect of the bill.

I want to quote to you a letter that Gerard Kennedy received and Dalton McGuinty was copied on—and I'm sure that all members of this committee received copies of it—from Clive Holloway, who is a professor emeritus at York University:

"Sir, as a high school dropout who has been a full professor at one of your universities for many years, I would like to disagree with your draconian attempts to force youth to stay in school by denying driving licences.

"I dropped out of a prestigious high school with excellent teachers that I still revere today. My reasons were partly to do with family finances and partly to do with my own feelings that I should get out into 'real life.'

"Within a year I was able to afford a used vehicle and get a driving licence. This enhanced my working opportunities, and the freedom encouraged me to explore more. One of my explorations led to education upgrading at night school. With my equivalent of a higher diploma, and the freedom to move a driving licence gave me, I was later able to resume my education full-time at a college and work at nights in a hotel restaurant. Finishing my college education with an industrial diploma, I was able to enter graduate school and earn the M.Sc. and Ph.D. which put me on the road to university teaching and research."

That's just a very practical example of how wrong-headed this part of the bill is, and I will leave it for members of government to contemplate. I know they're pushing forward with this, but we've made an effort here through this amendment to perhaps have the government give some pause.

The Chair: Further debate?

Mr. McMeekin: Just to note that we won't support this because it goes a little further than we want. There is some reference to driver's licences later in the amendments, an amended option referencing truancy courts. I can say that in one of our amendments, we deal with removing sections dealing with the Highway Traffic Act anyway.

The Chair: Further debate? I'll put the question. Shall the motion carry? Those in favour? Opposed? I declare the motion lost.

Additional comments on section 1?

Mr. McMeekin: I move that the definition of "equivalent learning" in subsection 1(1) of the Education Act, as set out in subsection 1(1) of the bill, be struck out and following substituted:

"'equivalent learning' means a learning situation that falls outside the instruction traditionally provided by a board, that is approved under paragraph 3.0.1 of subsection 8(1) and for which a pupil's success can be reasonably evaluated; ('apprentissage équivalent')."

That amendment comes about directly as a result of our discussions with our important stakeholders. In fact, it's part of the whole education loop that has been created in this bill. We're pleased to move that.

Mr. Marchese: I would like the parliamentary assistant or some other civil servant to explain the effect of this change on the old wording of the bill. What is the effect of what you either added or subtracted? Why the change? What did you take out or include?

Mr. McMeekin: We dropped the three specific references in (a), (b) and (c) that were there. We didn't want to be as specific and as pointed as those were, and that was part of our discussion with stakeholders. The definition of "equivalent learning" now includes reference to the minister's power to approve providers and programs under paragraph 3.0.1 of subsection 8(1). Therefore, only those approved by the minister will fit the definition of equivalent learning. There was a sense out there that equivalent learning needed a definition and that the minister needed to work with school boards and stakeholders to spell that out. Therefore, the various types of equivalent learning were removed, not wanting to pre-judge that process.

Mr. Marchese: If I may, just for clarity, the old bill said, "Traditionally provided by a board and for which a pupil's success can be reasonably evaluated, including, but not limited to...." So it makes some specific suggestions and the language suggests that it's not limited to, meaning other programs could be offered. Your point is, you didn't want to be specific based on the discussions you had with the stakeholders, whoever they may be. Now what you're saying is that you're going to be less specific even though the old language allowed you to do virtually anything you wanted, and only those programs approved by the minister are what really matters. Is that more or less—

1640

Mr. McMeekin: That's more or less true. In later amendments, we also define how guidelines, policies and

standards will be arrived at. That's covered off later in the provisions.

Mr. Marchese: You said there were some discussions with stakeholders. Can I ask you who they were?

Mr. McMeekin: We heard from a number of people who made presentations, as you know. This was referenced on a couple of occasions. We certainly had discussions with those folks.

Mr. Marchese: Did you have any other private meetings with any of the other federations after those deputations were made?

Mr. McMeekin: I haven't had any private meetings. Meetings the minister has had would be meetings that she's privy to, and I suspect it's out there that she's been having some discussions. Clearly, we want to walk the walk with our stakeholders and they with us, and we've been doing that.

Mr. Marchese: Okay. Thank you.

Mr. Klees: Would the parliamentary assistant please help me, then, with this paragraph 3.0.1? What is left? Are you stripping out everything that was in this section, which is essentially the equivalent learning definition?

Mr. McMeekin: No.

Mr. Klees: Okay. Clarify again what's coming out.

Mr. McMeekin: We're just dropping the (a), (b) and (c) provisions and putting in place a process to more appropriately talk about the kinds of learning experiences that would constitute a bona fide equivalent learning experience.

You said, "What are we doing?" We're doing exactly what we said all along we would do: Work with our stakeholders—the working groups, the student success group and other groups that have been walking the walk with us—to help ensure that the regulations that come out with respect to this bill are appropriate. That's what we're doing.

Mr. Klees: At what point do you address the qualification of the instructors?

Mr. McMeekin: You'll see in one of the amendments that there's a reference to education—we're getting ahead of ourselves, Mr. Chair, but I'll try my best. There's an amendment which will ensure that the education will not be of a lesser quality than is currently provided. That's a specific amendment that will be coming up for discussion.

Mr. Klees: What section is that?

Mr. Marchese: It's the next page.

Mr. Klees: Okay. I'll deal with it then.

The Chair: Further debate? Shall the motion carry? Carried.

Shall section 1, as amended, carry? Carried.

Section 2: Comments and amendments?

Ms. Jennifer F. Mossop (Stoney Creek): I move that section 2 of the bill be struck and the following substituted:

"2.(1) Subsection 8(1) of the act is amended by adding the following paragraph:

"Equivalent learning

"3.0.1 establish policies, guidelines and standards with respect to equivalent learning and may,

"i. require that boards develop and offer equivalent learning opportunities to their pupils in accordance with the policies, guidelines or standards,

"ii. subject to subsection (2), in accordance with criteria set out in the policies, guidelines or standards, designate groups, organizations or entities that are approved to provide equivalent learning to pupils of a board,

"iii. in accordance with criteria set out in the policies, guidelines or standards, designate programs, courses of study or other activities that are approved for the purposes of equivalent learning."

"(2) Subsection 8(1) of the act is amended by adding the following paragraph:

"Agreements concerning equivalent learning

"24.1 subject to subsection (2), enter into an agreement with one or more groups, organizations or entities respecting the provision of equivalent learning to pupils of one or more boards."

"(3) Section 8 of the act is amended by adding the following subsections:

"Minister's duties re equivalent learning

"(2) In determining whether to approve an organization or entity under paragraph 3.0.1 of subsection 8(1) to provide equivalent learning and in entering agreements for the provision of equivalent learning under paragraph 24.1 of that subsection, the minister shall have regard to the need to ensure that a pupil who participates in equivalent learning will not, by so doing, receive educational benefits of a lesser quality than those provided in the traditional education system.

"Restriction re credits for equivalent learning

"(2.1) The minister may not, in the exercise of his or her authority under subsection (1), authorize any person other than the principal of a school to issue a credit to a pupil for his or her participation in equivalent learning."

The Chair: Debate on the motion?

Mr. Marchese: Could the parliamentary assistant or a civil servant indicate to us the difference between what you've introduced and what was specifically laid out in the original bill?

Mr. McMeekin: Let me give it a try. Paragraph 3.0.1, of course, has been rewritten to clarify that only the minister can approve the equivalent learning programs. There's a reference to the word "standards" to indicate that the approval will be based upon the program group meeting ministry standards. This eliminates the possibility that school boards will in fact be able to set their own policies regarding equivalent learning programs and organizations, and that's important because you could have a radically different set of standards between boards.

It provides the minister with the authority to enter into agreements for the provision of equivalent learning students' boards. Right now, boards can only agree to enter into agreements with other boards. This will allow a province-wide potential. The equivalent learning organi-

zation will have to enter into an agreement on behalf of the school boards, and the minister will need to consider that the students who take the equivalent learning programs do not receive—repeat, do not receive—a lesser-quality education than those who don't.

This also ensures that in the minister's policies no person other than the principal of the school can be named to award the credits. We felt, on reflection and with the advice from a number of people, that made a lot of sense. We heard a lot of that kind of suggestion during our hearings.

Mr. Marchese: Just a little detail, but it now reads, "Establish policies and guidelines with respect to equivalent learning which may specify, but are not limited to specifying...." Your language says, "Establish policies, guidelines and standards with respect to equivalent learning and may...." I don't see any difference there in terms of that specific language. Is there any difference that I don't see?

Mr. McMeekin: I think I've done my best to outline what the intent was.

Mr. Marchese: Yes, and I was being very specific. That's okay. I obviously don't see the language change. It still says "may" and the original language says "may." It still has "boards develop and offer equivalent ... policies...." I'm not quite sure where boards are going to be doing anything different in your motion now versus where it was, except your addition on page 3, where you specify that "the minister may not, in the exercise of his or her authority under subsection (1), authorize any person other than the principal of a school to issue a credit...." Are you suggesting that under the old rules it wasn't a principal, that it would have been somebody else? Who might it have been under the old bill?

Mr. McMeekin: In response to that, there was a concern expressed by a number of presenters as we went through the public hearing phase that they didn't want to see us get into a series of ad hoc, uncontrolled, non-standardized learning modules that would detract from the integrity of the Ontario secondary school diploma. We wanted to clean up the language to ensure that that wasn't the case.

1650

Mr. Marchese: I don't see that. I don't see how the ad hoc programs that may emerge are any different with your new language. The fact that you've now added that says that no one other than the principal of a school can issue a credit: I don't know how that makes it any different; I really don't, first of all. Ted, if any civil servant wants to speak in this regard to help us out with clarity, I'd be very happy if you could permit us to do that.

Mr. McMeekin: Oh, I'm easy. We have several here.

Mr. Marchese: Chair, if we could have any civil servant who could comment on this, that would be helpful.

Mr. McMeekin: Maybe Grant could handle that, or Deborah. Deborah Goldberg is our legal services person

and Grant Clarke is the director of the student success branch.

The Chair: Although I'm sure you absolutely remember the protocol, please remember to identify yourselves for the purposes of Hansard first.

Mr. McMeekin: What we might want to do to save time is invite these two wonderful public servants to stay at the end of the table.

Mr. Marchese: Exactly what I was thinking. You can stay there in case we have other questions for you.

Mr. McMeekin: We have some other wonderful public servants here too whom I'll name as appropriate.

The Chair: Could you please identify yourselves for Hansard? The floor is then yours.

Ms. Deborah Goldberg: I'm Deborah Goldberg, legal counsel of the Ministry of Education.

Mr. Grant Clarke: I'm Grant Clarke. I'm the director of the student success/learning to 18 strategy policy branch.

Mr. Marchese: Thank you. Did you hear the question? Okay, great.

Ms. Goldberg: If you look at the original Bill 52, there are six examples of the types of policies the minister can issue. At the time that the bill was introduced, there was thought given that school boards would be able to develop their own policies. If you look in the original bill at subclauses v and vi of section 3.0.1, "v. criteria or standards that an organization must satisfy in order to be acceptable as a provider of equivalent learning,

"vi. criteria or standards that a program, course of study or other activity must satisfy in order to be acceptable for the purposes of equivalent learning."

"Acceptable" meant that the ministry had said that it would be acceptable for a school board to decide on the providers and the criteria. A decision has been made subsequently that the school boards will not be able to decide on the providers or on the programs. That will all be left to the minister.

Mr. Marchese: So that will be clarified later, not in this section but later.

Ms. Goldberg: That's in this amendment.

Mr. Marchese: It's in this amendment that we just read out. It's where, again?

Ms. Goldberg: It's on page 3, section 2 of the bill, under "equivalent learning."

Mr. Marchese: Sorry, are you talking about the old bill or the new amendments?

Ms. Goldberg: I'm using both together. If you compare the two of them, the amendment is considerably shorter than what was in the existing bill. That was because we took out all references to school board authorities to determine which were the equivalent learning providers and which could be equivalent learning programs. It will now all be left to the minister.

Mr. Marchese: Can I ask you, is this the section where we would know whether the programs offered would be by certified teachers, or is there another section that will deal with it later?

Ms. Goldberg: I believe that it would be in the policies, standards and guidelines that will be issued under this section.

Mr. Marchese: So what we will get, and it's not clear here today but it's clear in your mind, under paragraph i of section 3.0.1, is, "require that boards develop and offer equivalent learning opportunities to their pupils in accordance with the policies, guidelines or standards." This is what you point to, to say that the equivalent learning programs will be provided by certified teachers.

Ms. Goldberg: If that's done, it will be through those policies. I can't tell you right now what those policies—

Mr. Marchese: I understand: "If that's done"; that's the question I'm asking you, because teachers are worried about that and so am I. You're saying, "If that is done, it's not clear that it will be so." You're saying, "If that is done by the minister."

Ms. Goldberg: That's correct.

Mr. Marchese: So I'm not sure that teachers' federations were clear on this—maybe they are; maybe they're not. I wasn't clear and I didn't believe for a moment that these programs would be offered by teachers. So what is clear to me today is that this may happen or it may not. What I suspect is that, given that the intention of this government was never to have certified teachers, that will continue. But you can't comment on that because that's a political question. I understand. You made it very clear that nowhere in this section does it say that these equivalent programs will be offered by teachers except and unless the minister says yea or nay.

Ms. Goldberg: Through the policies.

Mr. Marchese: Thank you very much.

The Chair: Further debate?

I'll call the question: Shall the amendment carry? Carried.

Further amendments?

Mr. Klees: I will withdraw that.

The Chair: Mr. Klees has withdrawn his amendment.

Shall section 2, as amended, carry? Carried.

Section 3: Amendments?

Mr. Klees: I move that subsection 11(8.2) of the Education Act, as set out in section 3 of the bill, be struck out.

The Chair: Any debate?

Mr. McMeekin: This is precisely similar to motion 6, which follows, which we submitted. I don't know who got there first but it doesn't matter. The intent is the same, so we're pleased to accept that page 5.

Mr. Marchese: Could you explain for the record what the intent of that is, Parliamentary Assistant?

Mr. McMeekin: I can indeed. You'd be shocked if I couldn't, right?

Mr. Marchese: It's good for people to know on the record.

Mr. McMeekin: The government proposes—in this case the PC motion is exactly similar to the government's; the intent is the same—to withdraw the requirement that 16- to 17-year-olds obtain a notice of

confirmation from their school principal before they can apply for any class of driver's licence. These regulations are therefore no longer necessary.

Mr. Marchese: I recall, Parliamentary Assistant, that the minister, when she was just a regular member, was so happy with this stuff. Obviously she's been listening to people like you and to other parents. So it's a great thing that you guys listened. Is that the argument?

Mr. McMeekin: To her credit, the honourable minister is probably the most adroit human being at listening I've ever met. She has, and I don't think there's any secret that several members on the government side had, some considerable anxiety about this. This is why I was sure to invite several young people from my own constituency to come out and share their concerns. So we're pleased that we've been able to come to a meeting of the minds on this.

Mr. Marchese: I was so delighted to see the minister being so malleable, or at least flexible, in this regard. It's so good to see, because she was such a determined soldier, and she was going to soldier on with that, but in the end she gave in. This is really great.

The Chair: Be careful. She may quote you on that.

Further discussion on the amendment?

Mr. Klees: Let me just add that we certainly are pleased that there has been some listening that has taken place to the official opposition on this issue on behalf of all stakeholders who came forward and made their point, notwithstanding, as Rosario said, what was interesting about this is, if we look at Hansard, the number of times the minister vehemently defended this part of the legislation. There obviously was an awakening, and we're glad to see it. What we're hopeful is that, as time goes on, there might be even some more listening that takes place in other parts of her ministry.

The Chair: In this spirit of camaraderie, shall we try the question? Shall the amendment carry? Carried.

Number 6, identical to the amendment from the government, is therefore out of order and is withdrawn.

Shall section 3, as amended, carry? Carried.

There being no amendments proposed for section 4, shall section 4 carry? Carried.

Section 5: Amendments?

1700

Mr. Klees: I move that subsection 21(1) of the Education Act, as set out in subsection 5(1) of the bill, be amended by striking out "18 years" wherever it occurs and substituting in each case "16 years."

The Chair: Thank you. Discussion?

Mr. McMeekin: Other than the fact that it contradicts everything we're trying to do, it would be a great motion. So we will obviously reject it on this side.

Mr. Klees: You can't blame us for trying.

The Chair: With the positions thus staked out, Mr. Marchese?

Mr. Marchese: Just a brief comment. I just want to put for the record, because I didn't do this, what I think are the motives of this government as to why it is they're pushing the age up to 18. They're having a difficult time

dealing with the fact that one in three drops out of school and that if you're able to hold students until age 18, that would be a way of saying to the parents out there, "We are succeeding. More and more students are staying in school." God bless you, because the studies don't show that you're going to have much of a success in this regard in terms of this bill, putting yourself under this process. I think the studies show that where they made it obligatory to stay until age 18 you've got a 1.1% or 1.2% increase. So I suppose you might argue that even for that marginal increase it's better than nothing. I put to you that if you—

Ms. Mossop: Every body counts.

Mr. Marchese: Pardon, Madame Mossop?

Ms. Mossop: Every person counts.

Mr. Marchese: Yeah, every person counts.

I put to you that if you put back some of the programs we lost at the high school level, so many of those programs we've lost under the Tories that have continued to disappear under your jurisdiction, a lot of those students would have more opportunities to have hands-on programs, and they have been lost. Why you would move to go to some outside program instead of dealing with it within the system and provide the programs that work so well—in fact, improve them—is beyond my reasoning. I just don't get it. Put that for the record.

The Chair: Thank you. So noted.

Shall we try the question? Shall the amendment carry? All those in favour? All those opposed. I declare the amendment lost.

Further amendments?

Ms. Mossop: I move that subsection 21(1.1) of the Education Act, as set out in subsection 5(1) of the bill, be struck out and the following substituted:

"Participation in equivalent learning

"(1.1) A person shall be considered to be attending school when he or she is participating in equivalent learning if the equivalent learning program, course of study or other activity and the group, organization or entity providing it have been approved under paragraph 3.0.1 of subsection 8(1)."

The Chair: Discussion?

Mr. Marchese: If I can, the effect of this, again, from our friendly civil servant, Deborah—

Mr. McMeekin: I can answer that.

Mr. Marchese: Or the parliamentary assistant, sure.

Mr. McMeekin: The purpose of the subsection is pretty self-evident, I think. It's to ensure that a student will not be considered absent from school while attending an equivalent learning program. The amendment, of course, underscores once again the fact that the equivalent learning program must be one approved by the minister. It's that simple.

Mr. Marchese: Thank you.

The Chair: Further discussions or debate? Shall the amendment carry? Carried.

Shall section 5, as amended, carry? Carried.

Section 6: Amendments?

Mr. Klees: I move that section 21.2 of the Education Act, as set out in section 6 of the bill, be amended by adding the following subsections:

"Home schooled persons

"(8.1) A person who is receiving satisfactory instruction at home need not request confirmation from a board that he or she is in compliance with section 21 and may, for the purpose of demonstrating to the Ministry of Transportation that he or she is not disentitled from applying for a driver's licence or driver's licence endorsement or from taking a practical or written examination in respect of a driver's licence under the Highway Traffic Act, deliver to the Ministry of Transportation a statement, signed by the parent or guardian of the person, in which the parent or guardian confirms that,

"(a) he or she is aware that the person is required to attend school in accordance with section 21 unless excused; and

"(b) he or she is providing the person with satisfactory instruction at home such that the person is, in his or her view, excused from attendance at school and is in compliance with section 21.

"Signed confirmation sufficient

"(8.2) The Ministry of Transportation shall accept the signed confirmation described in subsection (8.1) as proof, in the absence of evidence to the contrary, that the person in question is in compliance with section 21."

The Chair: Debate? Discussion?

Mr. McMeekin: Just that it's clearly the government's intent to remove those sections, so I think this is redundant.

The Chair: Further discussion, debate?

Shall the amendment carry? Those in favour? Those opposed? I declare the amendment lost.

Further amendments to section 6? Ms. Mossop.

Ms. Mossop: I move that sections 21.2 and 21.3 of the Education Act, as set out in section 6 of the bill, be struck out.

The Chair: Discussion and debate?

Mr. Marchese: Just for the record, an explanation, please?

Mr. McMeekin: Sure. I'm pleased to provide the very simple explanation that the government proposes to withdraw the requirement that 16- and 17-year-olds receive a notice of confirmation from their school principal before they can apply for any level of driver's licence; these sections are therefore no longer necessary.

The Chair: Further discussion or debate?

I'll put the question. Shall the amendment carry? Carried.

Shall section 6, as amended, carry? Carried.

Section 7: Amendments? Ms. Mossop.

Ms. Mossop: I move that subsection 7(1) of the bill be struck out and the following substituted:

"7(1) Subsections 30(1), (2) and (3) of the act are repealed and the following substituted:

"Offences: non-attendance

"Liability of parent or guardian

“(1) A parent or guardian of a person required to attend school under section 21 who neglects or refuses to cause that person to attend school is, unless the person is 16 years old or older, guilty of an offence and on conviction is liable to a fine of not more than \$200.

“Bond for attendance

“(2) The court may, in addition to or instead of imposing a fine, require a parent or guardian convicted of an offence under subsection (1) to submit to the Minister of Finance a personal bond, in a form prescribed by the court, in the penal sum of \$200 with one or more sureties as required, conditioned that the parent or guardian shall cause the person to attend school as required under section 21 and, upon breach of the condition, the bond is forfeit to the crown.

“Employment during school hours

“(3) Anyone who employs during school hours a person required to attend school under section 21 is, unless the person is 16 years old or older, guilty of an offence and on conviction is liable to a fine of not more than \$200.”

“(1.1) Sections 30(1), (2) and (3) of the act, as re-enacted by subsection (1), are repealed and the following substituted:

“Offences: non-attendance

“Liability of parent or guardian

“(1) A parent or guardian of a person required to attend school under section 21 who neglects or refuses to cause that person to attend school is, unless the person is at least 16 years old and has withdrawn from parental control, guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

“Bond for attendance

“(2) The court may, in addition to or instead of imposing a fine, require a parent or guardian convicted of an offence under subsection (1) to submit to the Minister of Finance a personal bond, in a form prescribed by the court, in the penal sum of \$1,000 with one or more sureties as required, conditioned that the parent or guardian shall cause the person to attend school as required under section 21 and, upon breach of the condition, the bond is forfeit to the crown.

“Employment during school hours

“(3) Subject to subsection (3.1), anyone who employs during school hours a person required to attend school under section 21 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

“Exception

“(3.1) Subsection (3) does not apply when the person required to attend school is employed during school hours as part of equivalent learning if the equivalent learning and the group, organization or entity providing it have been approved under paragraph 3.0.1 of subsection 8(1).”

The Chair: Discussion and debate?

Mr. Marchese: Just for the record, I remember debating with Mr. Kennedy once where I pointed out that there was a change from the old bill to the new bill that he had proposed, and he said, “Oh no, there’s nothing

different. The Conservative government was doing the same thing,” and I pointed out that they went from 200 to 1,000 bucks, and he pretended not to hear. I also pointed out that it was such a dumb, dumb thing to do, in terms of trying to punish parents. Imagine—as if parents don’t want their kids to be in school. To even suggest that somehow parents were holding these kids back while they should be in school and that we should punish them with a \$1,000 penalty was, I thought, one of the dumbest things you Liberals were proposing. Then you went after the employers as well, as if they were at fault, of course; not that they wouldn’t want them if they could get them for cheap labour, because any employer will take cheap labour any time for any small price. But I thought that too was equally dumb.

1710

So I am happy to hear that once again your minister, who was a staunch soldier—she was really committed to this bill; how moving and how moved she was—heard that we had Liberal members in this committee who obviously must have been very persuasive and that she, obviously, was listening. God bless. You see, it’s possible to get some ministers to move away from their original positions. So there you go; you went from something very unintelligent to something more reasonably intelligent.

Mr. McMeekin: We’re committed to that.

The Chair: Further comments? Shall the amendment carry? Carried.

Further amendments? Ms. Mossop.

Ms. Mossop: I move that subsection 7(2) of the bill be struck out and the following substituted:

“(2) Subsection 30(5) of the act is repealed and the following substituted:

“Habitually absent from school

“(5) A person who is required by law to attend school and who refuses to attend or who is habitually absent from school is, unless the person is 16 years old or older, guilty of an offence and on conviction is liable to the penalties under part VI of the Provincial Offences Act and subsection 266(2) of this act applies in any proceeding under this section.”

“(2.1) Subsection 30(5) of the act, as re-enacted by subsection (2), is repealed and the following substituted:

“Habitually absent from school

“(5) A person who is required to attend school under section 21 and who refuses to attend or is habitually absent is guilty of an offence and for that purpose the following apply:

“1. Subsection 266(2) of this act applies in a proceeding under this subsection.

“2. A proceeding under this subsection shall be conducted in accordance with part VI of the Provincial Offences Act.

“3. Every reference to “16 years” in the definition of “young person” in section 93 of the Provincial Offences Act shall be read as a reference to “18 years.”

“4. A court may, on convicting a person of an offence under this subsection, impose any penalty under part VI of the Provincial Offences Act.

“Additional penalty: driver’s licence suspension

“(5.1) In addition to any other penalty it imposes on convicting a person of an offence under subsection (5), a court may order that the person’s driver’s licence be suspended and for that purpose the following apply:

“1. The order shall specify a date on which the suspension ends, which shall be no later than the date on which the person is no longer required to attend school under section 21.

“2. Once the suspension ends, the person may apply for the reinstatement of his or her licence to the registrar of motor vehicles appointed under the Highway Traffic Act.”

The Chair: Mr. Marchese?

Mr. Marchese: Mr. Chair, just to point out that we got these amendments at 1 o’clock. The reason why I’m asking the parliamentary assistant to speak to these changes is that I haven’t had an opportunity to compare these changes to what was in the bill. We didn’t have much more than a half-hour to review some of this stuff, so could you put on the record what changes there are between what we had and what you’re proposing?

Mr. McMeekin: Yes, I’d be delighted to. We did, but they didn’t get them until today. We didn’t get—

Mr. Marchese: One o’clock is when we got them, yes.

Ms. Mossop: Really? Oh.

Mr. McMeekin: Yes, I’d be delighted to do that.

Subsection (2) is a new section of the bill that allows for the separation of penalties for students under 16 and those over 16. The amendment exempts 16- and 17-year-olds from prosecution for habitual absence. Penalties for 16- and 17-year-olds will, of course, not come into effect until proclaimed at a future date. That’s why we prepared, with the capable assistance of the ministry stalwarts, the grid.

The reference to the driver’s licence as part of a court proceeding is to provide a judge, should he or she wish to—I didn’t know until we got into the discussion that a judge can currently incarcerate someone who is chronically truant. It is hoped that this would give a judge another tool of last resort, short of incarceration. We thought that made sense.

Mr. Marchese: Okay.

The Chair: Further debate?

Mr. Klees: If I could ask the parliamentary assistant: What you’ve essentially done is to take out the provision for licence suspensions as a matter of course through the bill. But what you’ve done now is slipped it in the back door, saying that if a judge feels it’s appropriate to do that, then you’re providing that latitude. Is that right? That’s essentially what you’re doing here.

Mr. McMeekin: With respect to the characterization, we’re not trying to slip anything in any back door. We’re trying to be realistic. There are a number of difficulties that were highlighted by a wide plethora of speakers, as

you know, in our public hearings. It also became clear to us in the process of looking at this that there were some considerable administrative problems, everything from MTO right through to different principals interpreting things in different ways. So we just felt this was a good way to resolve the issue and remove the requirement that 16- and 17-year-olds must go to their principal and get a certificate indicating that they are, in fact, in school in order to get any class of driver’s licence. That, on reflection, didn’t make sense to us, so we’ve removed it. The provision in the court is a legitimate attempt to provide his or her honour with some other options, short of incarceration.

Mr. Klees: May I ask what the procedure is that you contemplate, then, for the suspension? Who notifies MTO of the suspension? Is it an immediate one?

Mr. McMeekin: I’d have to yield to Deborah Goldberg, our legal counsel. That would be a legal process if it were a court-ordered action.

Mr. Klees: Can you explain how you envision that?

Ms. Goldberg: The court order is sent from the court directly to MTO. They already have procedures in place to do this under other legislation. They’re permitted to do it under the Provincial Offences Act, so we anticipate that it will be the same.

Mr. Klees: And how long does it typically take to have the reinstatement of the licence processed by MTO?

Ms. Goldberg: I know that when the suspension is over, the person has to apply to be reinstated. I can’t tell you how long it takes; I’m sorry.

Mr. Klees: Are you aware that for any reinstatement application there’s usually at least a six- to eight-week period of time before MTO can process this?

Ms. Goldberg: I was not aware, no.

Mr. Klees: Is the parliamentary assistant aware that this is the case?

Mr. McMeekin: We appreciate your drawing that to our attention, and we’ll look at any and all ways we can improve that legally.

Interjection.

Mr. McMeekin: Yes, I think there were four cases, but potentially 250 students across the province could hypothetically fall under that category.

Ms. Mossop: But realistically only four.

Mr. McMeekin: I think there are four, or seven actually.

Ms. Mossop: Four.

Mr. Klees: And what do you base that on?

Ms. Mossop: That was the information we were provided of how many kids actually end up in court facing this situation. It’s a small tool, that’s all.

Mr. Klees: A small tool.

Ms. Mossop: It’s realistic, I think, to indicate that if there is a child or a student who is truant without good reason, there’s something much more tangible about the potential of losing a driver’s licence than there is about their parents potentially being fined and the other tools that are available to a judge.

Mr. Klees: I'm simply pointing out that we have, within this government, some process problems. I'm sure members here have dealt with constituents who've gone through the process of trying to get a licence reinstated; eight weeks, 12 weeks, sometimes much longer from the time the suspension is over and you supposedly have served your time. Now you move into another complexity of trying to get that licence back. I'm just suggesting to you that it's already going to be a hardship, which I think is inappropriate. Whether it's imposed by the judge or by the Ministry of Education through its policies, I think it's fundamentally wrong. You have to be aware that not only are you going to be taking that driver's licence away for the period of the suspension; that person won't be able to drive for at least another six to eight weeks, at a minimum, while MTO processes that reinstatement application. At the very least, I would have thought that you would have thought this through and there would be some form of bypassing that bureaucratic process so that there would be an immediate reinstatement without having to go through, as this reads, the normal MTO reinstatement process.

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Mr. McMeekin: I think the point's well taken. We had some background information that I recall reading that suggested—and I'm just going from recall; I'm scrambling to see if I have it, but I don't—that the process didn't take that long. But the point's been made, and I think every member of this committee and every member of the Legislative Assembly is always anxious to ensure, whenever we make some suggestion that will wind its way into law, that it's done in a way whereby processes to undo a penalty are expedited. We'll certainly note the concern. I think that's all we can do at this point.

The Chair: Further discussion or debate? Shall the amendment carry? Carried.

Shall section 7, as amended, carry? All those in favour? All those opposed? Section 7 carries.

Shall section 8 carry?

Mr. McMeekin: Mr. Chair, we have motion 14. The government recommends removing this section in its entirety, and we're told that, procedurally, the only way we can do that is to vote against it.

The Chair: So noted. Shall section 8 carry? I declare section 8 lost.

There being no amendments proposed for sections 9 through 11, may we consider sections 9 through 11 as a block? Okay. Shall sections 9 through 11 carry? Carried.

Section 12: Amendments?

Ms. Mossop: I move that paragraph 7.3 of subsection 170(1) of the Education Act, as set out in section 12 of the bill, be struck out and the following substituted:

"Equivalent learning

"7.3 in accordance with any policies, guidelines or standards issued under paragraph 3.0.1 of subsection 8(1), develop and offer equivalent learning opportunities to their pupils."

The Chair: Discussion?

Mr. Klees: Was the previous wording "develop and implement"? I just can't find it right now.

Mr. Marchese: Deborah?

Ms. Goldberg: Yes.

Mr. Klees: So I just have this question: What is the difference? Why did you change the word "implement" to "offer"?

Mr. McMeekin: Sorry. I think there's something wrong with the mikes here.

Mr. Klees: Okay, we'll try again. The original wording was "develop and implement" equivalent learning opportunities. You've changed the word "implement" to "offer." Why? What is the difference? There obviously must be a reason for that.

Mr. McMeekin: I'll try, and then maybe staff can. I think when you say that you're going to implement something, it carries the connotation that you're imposing something rather than offering it to students as part of a choice. I think that would be the simple answer, but there's some other stuff here.

Mr. Marchese: Any comment from the civil servant, perhaps?

Ms. Goldberg: It's an amendment to subsection 170(1) of the Education Act, which relates to requirements for school boards, school board duties. It was drafted to be consistent with section 2 of the bill amending subsection 8(1) of the act, which is the minister's powers. Where there were six powers of the minister with respect to policies, two of those dealt with boards being able to have their own policies for their own approval of providers and programs. This board authority here was to be consistent with that. Now that we've changed 8(1), we've changed this to match the new 8(1) and the inclusion of "standards."

Mr. Klees: Okay. If I could just follow that up, why did you change that word in the first place? I understand that you now have to make this consistent with the first change that you made, but why was that word changed in the first place?

Ms. Goldberg: I believe they were changed to make sure it was clear that only the minister, and not the school boards, could approve the providers and the programs.

The Chair: Further debate? Shall the amendment carry? Carried.

Shall section 12, as amended, carry? Carried.

Section 13: Amendments?

Ms. Mossop: I move that section 13 of the bill (section 189.1 of the Education Act) be struck out and the following substituted:

"13(1) The act is amended by adding the following section:

"Agreements re equivalent learning

"189.1(1) Subject to subsection (2), one or more boards may enter into an agreement with one or more groups, organizations or entities approved under paragraph 3.0.1 of subsection 8(1) to provide for equivalent learning opportunities for pupils of the board or boards and every such agreement shall address such matters and include such requirements as the minister may specify.

“Minister’s approval

“(2) Prior to entering into an agreement, a board shall submit the proposed agreement to the minister for his or her approval.”

“(2) On the later of the day subsection (1) comes into force and July 1, 2008, subsection 189.1(2) of the act, as enacted by subsection (1), is repealed and the following substituted:

“Minister’s approval

“(2) The minister may require boards to submit proposed agreements for his or her approval before entering into them.”

The Chair: Discussion?

Mr. Marchese: Could the parliamentary assistant provide an explanation for this section?

Mr. McMeekin: I’d be delighted to respond to my good friend Mr. Marchese. This provision has been amended specifically to clarify that school boards can only enter into agreements for equivalent learning with organizations that have been approved by the minister. Obviously, there’s a quality control and a best practice aspect to this. Until July 1, 2008, school boards must submit their proposed agreements for equivalent learning to the minister for approval. After July 1, 2008, that requirement may well be repealed based on our experience with the process.

Mr. Marchese: That’s why I thought it was a problem. You have made the argument that you need ministerial approval on a regular basis because you don’t want any ad hoc programs. But after you’ve had some experience, you won’t need that anymore, and the minister may require boards to propose agreements, but not necessarily. You argue that once you’ve had your initial experience, everything will be okay. Is that more or less the way the argument would go?

Mr. McMeekin: I think we’re prepared to accept the possibility that has been highlighted so very well by my articulate friend Mr. Marchese, that the minister will continue on with her very adroit inclination to listen. Based on that, if it’s working, why would we not want to—

Mr. Marchese: I’ll tell you why.

Mr. McMeekin: Go ahead. Tell me why.

Mr. Marchese: If it is important that we not have ad hoc programs, as you were saying earlier on, there is absolutely no indication that once you’ve had your experience with whatever communities want to offer programs, everything will be okay. I’ve got a problem with your language that says, “The minister may.” You understand this. You’ve been around a long time, as a former mayor as well as a long-time politician. “May” may suggest that it may happen; it doesn’t require that it does happen.

1730

So what it means is that there will be no oversight. There could be if there was a problem and, indeed, there will be problems that will draw your attention or the minister’s attention to it. All of a sudden, the minister will get involved and deal with the problem. If you

believe that this could be a problem and you want to eliminate ad hoc programs and you require ministerial approval, I suggest to you that this is bad.

Jennifer Mossop, do you want somebody to comment?

Ms. Mossop: You wanted to comment?

Mr. Clarke: We can provide further clarification.

Mr. McMeekin: Sure, if you want. Go ahead.

Mr. Clarke: The provision for boards to actually submit all of their agreements until July 2008 doesn’t change the fact that all equivalent learning under section 2, subsection 8(1) and 3.0.1 may only be approved by the minister. So even though the ministry might not be scrutinizing every local agreement, local agreements can only include equivalent learning instances that have been reviewed and approved against the standards that will be developed through policy and in consultation with stakeholders. So there is no latitude after that point for programs to go—

Mr. Marchese: Mr. Clarke, why is it important? If you’ve now put language that says they will have to follow guidelines, policies, procedures, if you feel good about that, why is it that you feel at this specific time that we need the minister to approve these programs? Are you or the government not feeling comfortable or good with the fact that your procedures or policies are there and that you are supervising them and that I have nothing to fear? Don’t you feel comfortable with that?

Mr. Clarke: These are new programs, and we’re in a pilot project phase-in, if you will. I believe there has been considerable input to the ministry about the need to track the success of students in these programs to be clear that the curriculum that is part of the programs follows the provincial templates. So, yes, we are going to look more closely at these programs to make sure that actually does happen.

Mr. Marchese: So if we now need ministerial approval, it means we’ll track better, versus, when the minister is no longer required to do it, the tracking will be less stringent? What does it all mean, really?

Mr. Clarke: We will be tracking all of these programs, as we do now, for student success.

Mr. Marchese: So why do we need the minister to approve it if we’ve got guidelines?

Mr. Clarke: In the instance of new partnership agreements with particular sectors around, for example, the high-skills majors that are being piloted this year in the province, we want to be sure that the elements that may be included along with the curriculum delivered in the school actually reflect what has been approved provincially.

Mr. Marchese: Sorry, I thought, if we have guidelines—I’m not sure why we need the minister to get involved. Guidelines reflect ministerial approval, ministerial involvement, do they not?

Mr. McMeekin: What gets measured gets done.

Mr. Marchese: I understand that.

Mr. McMeekin: There’s no sense having standards unless you’re going to track and make sure they’re being met.

The Chair: Gentlemen, one at a time, and let's keep it coming through the Chair.

Mr. McMeekin: Through you, Mr. Chair.

Mr. Marchese: I agree with you, Ted, through the Chair. No question about the need to track and the fact that we will track, whether you have the minister or not. That's not the issue. The point is, guidelines reflect the minister's wishes, generally speaking. Otherwise, guidelines would be different. So why do we need the minister to be involved?

Mr. McMeekin: We're looping this back to the provision earlier that the minister asked to approve all of the other educational—

Mr. Marchese: Isn't that micromanaging a little bit, perhaps?

Mr. McMeekin: You know what? We don't mind trying to answer that suggestion in the interest of guaranteeing the success of our students. We're interested in making sure that this works. We're not interested in processes for the sake of process. We're interested in making sure it works.

Mr. Marchese: It's a rare thing that the minister gets involved in having to see each project. It's a very rare thing, for some of us who've had that experience. We sometimes read a lot of documents that come to our attention, and some ministers don't. Some ministers simply don't have the time to micromanage these projects. It's a bit odd.

Mr. McMeekin: That's reflective of the importance we attach to it.

Mr. Marchese: Sure. That's reflective of the pressure some federations are putting on you and you want to just try to make it—

The Chair: Gentlemen, can we keep it focused on the amendment?

Mr. Marchese: Of course, through you, Chair, the issue here is that the minister is profoundly worried about some of the pressure that she's been getting from some of the teachers. Of course, I am just stating an opinion. I could be wrong. Because of this, the minister is saying, "These projects have to be approved by me and that will make you, OSSTF, feel good. But after the first year it will all be gone, after we get re-elected, and I won't have to review it because the ministry staff is there in place." It's just as clear as limpid waters in southern Italy.

Mr. McMeekin: Far be it from me to suggest that my good friend might be wrong. He suggested he could be wrong, and he could. He's very schooled in these matters, but far be it from me to suggest that.

We do attach a lot of importance to it. We feel this keeps it consistent. It's about best practice. It's about making sure we're in line, that we're walking together. I think the comments of the OSSTF and the Ontario English Catholic Teachers' Association earlier were helpfully instructive in pointing to their pleasure with some of the amendments that we made and too, in fairness, articulating some of their concerns and wanting to make sure that we take care of that in the process. We're trying to do that.

Mr. Marchese: I'm going to do my best to let the teachers know, by whatever limited means I've got, what we're passing here today. So don't you worry.

Mr. McMeekin: I never worry.

Mr. Marchese: Chair, I'm voting against everything, but on this, I want it to be on the record just in case. Could we have a recorded vote on this matter?

The Chair: We can absolutely have a recorded vote, Mr. Marchese. Are we ready for the question? Good. On this amendment, a recorded vote.

Ayes

Levac, McMeekin, Mossop, Peterson, Racco.

Nays

Klees, Marchese.

The Chair: I declare the amendment carried.

Shall section 13, as amended, carry? Carried.

Section 14: Amendment? Ms. Mossop.

Ms. Mossop: I move that subsection 14(2) of the bill be struck out.

Mr. Marchese: Could you explain it to me, please?

Mr. McMeekin: Of course. It's redundant and no longer necessary because Bill 78 has actually repealed the relevant provision in the Education Act; therefore, it's not necessary.

The Chair: Further discussion? Shall the amendment carry? Carried.

Shall section 14, as amended, carry? Carried.

Section 15: Shall section 15 carry? I declare section 15 lost.

Section 16: Shall section 16 carry? I heard a no. All those in favour? All those opposed? I declare the section lost.

Section 17: Ms. Mossop.

Ms. Mossop: I move that section 17 of the bill be struck out and the following substituted:

"Commencement

"17(1) Subject to subsection (2), this act comes into force on the day it receives royal assent.

"Same

"(2) Sections 2 and 3, subsections 7(1.1), (2.1) and (3), sections 12 and 13 and subsection 14(1) come into force on a day to be named by proclamation of the Lieutenant Governor."

The Chair: Discussion? Shall the amendment carry? Carried.

Shall section 17, as amended, carry? Carried.

The preamble: Ms. Mossop.

Ms. Mossop: I move that paragraph 2 of the preamble to the bill be amended by striking out "strong education system" and substituting "strong, publicly funded education system."

Mr. Marchese: I want to go on the record as supporting that, Mr. Chair.

The Chair: Don't get ahead of yourself, Mr. Marchese.

In the case of a bill that has been referred to a committee after second reading, a substantive amendment to the preamble is admissible only if it is rendered necessary by amendments made to the bill.

I find that the bill has not been amended in such a way as to warrant this amendment to the preamble.

I, therefore, find this amendment out of order.

Shall the preamble carry? Carried.

Section 18: Ms. Mossop.

Ms. Mossop: I move that section 18 of the bill be struck out and the following substituted:

“Short title

“18. The short title of this act is the Education Amendment Act (Learning to Age 18), 2006.”

The Chair: Discussion? Shall the amendment carry? Carried.

Shall section 18, as amended, carry? Carried.

The title: Ms. Mossop.

Ms. Mossop: I move that the long title of the bill be amended by striking out “and to make complementary amendments to the Highway Traffic Act” at the end.

The Chair: Discussion? Shall the amendment carry? Carried.

Shall the title of the bill, as amended, carry? Carried.

Shall Bill 52, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you very much, ladies and gentlemen. That concludes our business here today. The meeting is adjourned.

The committee adjourned at 1740.

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Ms. Deborah Goldberg, counsel, legal services branch,

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Assemblée législative de l'Ontario

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Official Report of Debates (Hansard)

Thursday 23 November 2006

Journal des débats (Hansard)

Jeudi 23 novembre 2006

Standing committee on the Legislative Assembly

Mandatory Blood
Testing Act, 2006

Comité permanent de l'Assemblée législative

Loi de 2006 sur le dépistage
obligatoire par test sanguin

Chair: Bob Delaney
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 23 November 2006

Jeudi 23 novembre 2006

*The committee met at 1530 in committee room 1.*MANDATORY BLOOD
TESTING ACT, 2006LOI DE 2006 SUR LE DÉPISTAGE
OBLIGATOIRE PAR TEST SANGUIN

Consideration of Bill 28, Bill 28, An Act to require the taking and analysing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996 and the Health Protection and Promotion Act / Projet de loi 28, Loi exigeant le prélèvement et l'analyse d'échantillons de sang afin de protéger les victimes d'actes criminels, le personnel des services d'urgence, les bons samaritains et d'autres personnes et apportant des modifications corrélatives à la Loi de 1996 sur le consentement aux soins de santé et à la Loi sur la protection et la promotion de la santé.

The Chair (Mr. Bob Delaney): Good afternoon, everybody. We are here to consider Bill 28, An Act to require the taking and analyzing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996, and the Health Protection and Promotion Act.

SUBCOMMITTEE REPORT

The Chair: Our first order of business will be a report from the subcommittee. Ms. Mossop.

Ms. Jennifer F. Mossop (Stoney Creek): Your subcommittee met on Tuesday, November 7, 2006, to consider the method of proceeding on Bill 28, An Act to require the taking and analysing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996, and the Health Protection and Promotion Act, and recommends the following:

(1) That the committee meet for public hearings on Thursday, November 23, 2006, at Queen's Park.

(2) That the clerk of the committee post information regarding public hearings on Bill 28 on the Ontario parliamentary channel and the committee's website.

(3) That staff of the Ministry of Community Safety and Correctional Services be invited to provide the committee with a 30-minute briefing and question period prior to the start of public hearings on Thursday, November 23, 2006.

(4) That interested parties who wish to be considered to make an oral presentation on Bill 28 contact the clerk of the committee by 5 p.m. on Monday, November 20, 2006.

(5) That if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 5:30 p.m. on Monday, November 20, 2006, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled by 12 p.m. on Tuesday, November 21, 2006.

(6) That the deadline for written submissions on Bill 28 be 5 p.m. on Tuesday, November 28, 2006.

(7) That all witnesses be offered a maximum of 20 minutes for their presentation, with discretion given to the Chair and clerk of the committee to reduce witness presentation time, should the need warrant.

(8) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 4 p.m. on Wednesday, November 29, 2006.

(9) That the committee meet tentatively on Thursday, November 30, 2006, for clause-by-clause consideration of Bill 28 (subject to change).

(10) That the research officer provide the committee with background information on the current practice prior to the start of public hearings, and that the research officer provide the committee with a summary of public hearings prior to clause-by-clause consideration.

(11) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you very much. Adoption of the report of the subcommittee? Carried.

MINISTRY OF COMMUNITY SAFETY
AND CORRECTIONAL SERVICES

The Chair: Our first order of business will be a presentation by the Ministry of Community Safety and Correctional Services. You'll have up to 15 minutes, if you need the time, to present to us. Please begin by introducing yourself for the purposes of Hansard. After

you're done, each party in rotation will have up to five minutes for questions. Proceed when you're ready.

Mr. Stephen Waldie: Good afternoon. I'm Steve Waldie, director of policy with the Ministry of Community Safety and Correctional Services. With me today is Marnie Corbold, who is legal counsel for the ministry.

As mentioned, we are here to give you an overview of Bill 28, the Mandatory Blood Testing Act. To do that, I'm going to walk you through the slide deck that I think you have in front of you.

Starting on page 3, I'll just give you some context about how we got here. The legislation on mandatory blood testing was originally introduced via a private member's bill and took effect in September 2003.

The current provisions are contained in section 22.1 of the Health Protection and Promotion Act. The current legislation enables persons who have come into contact with the bodily substances of another person while providing emergency health care services, emergency first aid or as a result of being a victim of crime to make an application to a medical officer of health to determine the HIV/AIDS, hepatitis B or hepatitis C status of the source of exposure. It further provides that if a person does not voluntarily provide a blood sample, a medical officer of health can order the required sampling and testing.

Just a bit more for your reference: Between September 2003 and June 2005, 76 applications were made. Of these, 39 were resolved voluntarily, 26 were dismissed, 10 were refused and one order was issued.

On to page 5: The primary objectives of Bill 28 are to streamline the process and to ensure that applications are dealt with in an efficient, effective and timely manner for all concerned. It also intends to strike a balance among the interests of the applicant, the respondent, workers and those administering the process. It also specifically responds to concerns expressed by the police and other public safety workers that the procedures and process are too lengthy under the current legislation. And it responds to medical officers of health who have concerns with their role as adjudicators.

Key changes: One of the key changes is with respect to timing. The timeline for a medical officer of health to attain the voluntary compliance of the respondent has been shortened from seven days to two days. A hearing conducted by the Consent and Capacity Board into an application must be held and concluded within seven days after the application has been referred to the board. And the board's decision must be given within one day after concluding a hearing. So in total time, the maximum time from the receipt of an application to a decision would now be 19 days. Under the current process, it can take up to 70 days.

The other key change in the bill is that Bill 28 transfers the power to make an order from a medical officer of health to the Consent and Capacity Board. Medical officers of health will maintain responsibility for screening applications, seeking voluntary blood samples and supervising the execution of orders.

I'm now going to walk you through the process that the new bill proposes. For those who are more graphic-

ally inclined, there is a flowchart of the process on page 14, or you can follow the words on the next few slides.

The front end of the bill essentially remains the same. Those who have come in contact with the bodily substance of another person, in circumstances set out in the act or as prescribed by regulation, which are the same as the current act—as a result of being a victim of crime, or while providing emergency health care services, emergency first aid or other prescribed classes or prescribed activities as set out in regulations—may apply to a medical officer of health to have the blood of the other person analyzed.

Page 9: The medical officer of health is responsible for seeking voluntary compliance from the respondent within two days. If voluntary compliance is not obtained or the respondent cannot be located, the medical officer of health must refer the application to the Consent and Capacity Board for consideration. The chair of the board is permitted to appoint a quorum of one to consider the application if the chair believes that the member has expertise with respect to blood-borne pathogens and meets all other qualifications required by the chair.

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As I previously stated, the board must commence and conclude a hearing within seven days, and the board must make its decision within one day of the hearing ending. If the board makes an order directing that the respondent provide a blood sample, notice shall be given to the respondent, the applicant, counsel for both parties and the medical officer of health. A decision of the board is final; there is no right of appeal, although a request for judicial review of the board's decision is still available.

If the respondent does not comply with an order, the applicant may apply to a judge of the Superior Court for an order requiring that the respondent comply with the order. The bill also provides that anyone who fails to obey an order of the board, or contravenes or fails to comply with any requirement under the act, is guilty of an offence and liable for not more than \$5,000 a day. This is consistent with offence provisions set out in the Health Protection and Promotion Act.

Finally, the bill provides the Minister of Community Safety and Correctional Services with broad regulation-making authority, including but not limited to prescribing diseases that are listed as communicable; prescribing classes of persons who can make an application; prescribing circumstances and activities; defining "victim of crime"; governing an application to a medical officer of health and actions taken by a medical officer of health; and prescribing rules governing an application as deemed to be received by a medical officer of health or the board. I thank you.

Mr. Peter Kormos (Niagara Centre): Chair, just a question: What time is it?

The Chair: I have 3:40.

Mr. Kormos: Okay. May I suggest that we seek unanimous consent that the balance of this half-hour, the 20 minutes, be divided equally three ways—because we don't have the first presenter until 4—in terms of questions of these folks?

The Chair: If the first presenter shows up—do you have any questions beyond your allocated five minutes?

Mr. Kormos: He's scheduled for 4 o'clock.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): The first presenter is here.

The Chair: The first presenter is here?

Mr. Kormos: He's scheduled for 4, but—okay. Let's get going.

The Chair: Okay. Mr. Dunlop? Mr. Miller?

Mr. Garfield Dunlop (Simcoe North): Just on behalf of the official opposition, I really have no comments. I'm hoping that this will do better than the private member's bill, which of course you knew I was a part of. I know my colleague Norm Miller has a few comments—

Interruption.

Mr. Dunlop: I think it's my cellphone. Sorry. I didn't realize it was my phone.

Mr. Kormos: Do you keep it on vibrate as a rule?

Mr. Dunlop: I keep it on silent. I didn't realize it was going to cause the communications system here to go bad.

Anyhow, all I was saying was that I understand, in talking to any of the stakeholders I've dealt with in the past, that they're fairly happy with the changes. I guess the only question I would have before I—I know my colleague Norm Miller has a couple of questions. Do you see any roadblocks that could be thrown in front of this bill now that would obstruct the bill from being put through in its normal form?

Mr. Waldie: Any time you're talking about taking blood sampling from a person, it is a very invasive procedure and some people do not like that. So you may hear some concerns about that actual process. We have talked to the stakeholders involved in drafting the legislation, and it tries to present a balance to that situation.

Mr. Norm Miller (Parry Sound–Muskoka): Thank you for your presentation and thank you to Garfield Dunlop, the member from Simcoe North, for bringing the original private member's bill forward upon which you are now, I assume, improving and speeding up, by the sounds of things, with Bill 28.

I guess a couple of questions just to do with process: First of all, for the individual worker, whether they be a paramedic or a police officer, who needs to make access to this bill—run me through the process that they go through. Is it just them writing a letter? What is involved? Is it fairly simple, I guess is what I'm getting at, for the worker who wants to make access and get the results in making use of this bill?

Mr. Waldie: The worker will have to fill out an application form that will—

Mr. Norm Miller: Will there be a standard application form?

Mr. Waldie: There will be a standard application, yes.

Mr. Norm Miller: They will be able to access that online, I assume?

Mr. Waldie: They will be. One of the key components I think the ministry sees with the bill is education, to make sure that people understand the bill, what the bill can do and how to use the bill.

Mr. Norm Miller: What happens when you go through the process and the respondent doesn't co-operate? So then the person affected has to apply to a Superior Court judge?

Mr. Waldie: Right.

Mr. Norm Miller: I am not a lawyer like Peter here, so how expensive a process is that? I assume they would have to hire a lawyer to make that application. How long would that take?

Mr. Waldie: They would certainly have the choice to retain counsel. It would be a matter of the court, how quickly it could get before the court and how quickly it could be dealt with.

Mr. Norm Miller: Courts are not known for being exactly speedy, so that could be a real stumbling block if you got an unco-operative respondent that you were dealing with.

Mr. Waldie: It could be a challenge to the applicant.

Mr. Norm Miller: Okay. In your presentation you said that between 2003 and June 2005, only one order was issued.

Mr. Waldie: Correct.

Mr. Norm Miller: So is that being corrected now in Bill 28 so that more orders will be issued? I can't imagine that of 76 applications only one would be successful.

Mr. Waldie: One of the challenges we had in reviewing how the current legislation works was real access to information about those decisions that were being made. We don't really have good information about how those decisions were made. I think just the length of the processes alone may have been seen as a stumbling block to actually even applying for the sample to be taken. To be honest, we don't really know what to expect.

Mr. Norm Miller: Thank you very much. It looks like it's going to be speeding up the process. I guess the point of my questions is that the simpler it can be, the less expensive for those who need to make use of it, and the faster they can make use of it, the better.

The Chair: Mr. Kormos.

Mr. Kormos: We support the proposition, just as we did the original legislation. I'm fascinated, though, by the statistics to date. Thirty-nine were resolved voluntarily. That meant that people were notified of their obligation to provide a sample of blood and they said, "By all means. Where do I do it? Where do I go?" and what have you.

My suspicion is that the person least likely to voluntarily participate is the perpetrator of a crime, where the person being impacted is the victim of the crime. Is that just an assumption or has that been reflected in the data?

Mr. Waldie: I believe you're correct. The majority of applications have come from victims, or a significant number have come from victims of crime. How that process played out, we don't know.

Mr. Kormos: What I'm interested in, for instance, I can't, for the life of me—if again, that radial arm saw takes off—I wouldn't want to have it take off my left hand. As a left winger I'd rather my right hand go, but if it were to take off my right hand and paramedics are coming, I'm going to be grateful enough that they can

take as many samples of blood as possible, right? But you don't have data that identifies who's voluntarily participating and who's not?

Mr. Waldie: We don't.

Mr. Kormos: Is that available anywhere? Let's see if we can get that, okay?

The other thing is that 26 were dismissed as "application incomplete." That's peculiar. What happened? Were these people who made an error in the application and they got dismissed because of an error in the application?

Mr. Waldie: You're not going to like my answer again, but we don't have the answers why. The applications were incomplete, and it's possible they didn't know the name of the person they came into contact with, and the information provided made it impossible to take action to contact the respondent. But the specific examples of every case we don't know.

1550

Mr. Kormos: You understand why that's of concern, because if a mere technicality and omission of checking a box, what have you, causes an application to be dismissed, that puts innocent people at risk on the basis of mere procedural things. Maybe, Ms. Luski, you could work with these folks, and we could try to find that out.

Ten were refused. Only one order was issued. The refusals—that means the medical officer of health said no. Can you canvass some of the rationale? What are the considerations that the MOH makes when he or she refuses?

Ms. Marnie Corbold: The actual considerations that they're looking at are similar to what we have in section 5, so they're looking at reasonable and probable grounds that they came into contact with a bodily substance of the other person, that they may have become infected, that testing the respondent's blood won't jeopardize their health. So it's similar considerations, and I guess the ultimate one is that the analysis is necessary to eliminate the risk to the health or safety of the applicant. Those are the considerations the medical officers of health are looking at, similar to section 5.

Mr. Kormos: But in real-world terms, what does that mean? Does it mean if I say, "Oh, some blood got on my forearm," and I didn't have any open wounds, then the medical officer of health can say, "Oh, come on. You can't contract anything that way"? Do I have to have it sprayed in my face before—those are the two extremes, right? Can you give us a real-life example of where somebody had contact with blood and where the MOH would say no?

Ms. Corbold: I don't think we know the details of any of the specific cases, what the factual circumstances were, so I can't really comment on that.

Mr. Kormos: And why do medical officers of health, because you're involving the CCB—it's a Toronto-based operation?

Mr. Waldie: No, it's not.

Mr. Kormos: Where is it based?

Mr. Waldie: It's available province-wide.

Mr. Kormos: I know, but where's it based?

Ms. Corbold: I think it is based in Toronto.

Mr. Kormos: Toronto-based. They've got members all over the province, right? So that's what you're suggesting: These members will be accessed to conduct the hearings—

The Chair: Thank you very much. Mr. Balkissoon.

Mr. Bas Balkissoon (Scarborough–Rouge River): Thank you very much for your presentation and for all the work you've done on this particular bill. We appreciate it.

Mr. Kormos: What about all the policy people in the back, in the corner? They've been working hard on this for months.

Mr. Balkissoon: All of them are included, the whole ministry.

POLICE ASSOCIATION OF ONTARIO

The Chair: Our first deputation this afternoon is the Police Association of Ontario and a gentleman who needs no introduction to anybody here unless they've just been elected: Bruce Miller. Welcome. Although you know the drill, for the benefit of your associate, you'll have up to 20 minutes to make your submission, and if you leave any time remaining, it will be divided among the parties for questions. Please begin by stating your names for Hansard, and proceed.

Mr. Bruce Miller: Thank you. My name is Bruce Miller, and I'm the chief administrative officer for the Police Association of Ontario. I was also a front-line police officer for over 20 years prior to taking on my current responsibilities. With me today is Natalie Hiltz of the Peel Regional Police Service.

The Police Association of Ontario represents over 30,000 police and civilian members from every municipal police association and the Ontario Provincial Police Association. We appreciate the opportunity to provide input into this important process.

We are here today in support of Bill 28 and to stress the need for effective mandatory blood testing for individuals who may have infected an emergency worker, a victim of crime or a good Samaritan.

We'd like to acknowledge the hard work that was done on this issue by Simcoe North MPP Garfield Dunlop, who had his groundbreaking private member's bill proclaimed in 2003. The legislation was the first of its kind in Canada. Mr. Dunlop was a real champion for us on this issue, and any problems that arose with the legislation couldn't be foreseen at that time.

Thank you very much, Garfield. We really appreciate everything you did for us.

Since the introduction of Mr. Dunlop's legislation, many stakeholders have come together to share their experiences, which, in turn, has helped to shape the legislation introduced by the McGuinty government. The Minister of Community Safety and Correctional Services, Monte Kwinter, introduced legislation last November which we believe achieves the right balance of protecting emergency responders, victims of crime and good Samaritans and those who place them at risk.

A number of years ago, I performed CPR on an individual who unfortunately did not survive. The coroner was concerned that the individual may have had spinal meningitis and ordered an immediate autopsy that confirmed his suspicions. I was called at home late at night and told to attend the local emergency ward to begin treatment, which I did. If the individual had survived, I may not have been privy to the same information.

I will now ask Natalie Hiltz to tell you her story.

Ms. Natalie Hiltz: I'm Constable Natalie Hiltz, with the Peel Regional Police Service. I want to tell you about an incident that happened to me when I was 26 years old and in my rookie year. The day was Saturday, June 14, 1997. It was 8 in the morning and was the start of what I thought would be a routine day.

I was sent on a domestic disturbance call with another officer. We arrived and separated the two people who were involved. I was dealing with a female, who pushed me and ran. I chased her and she bit me on my left hand while I was effecting an arrest. She broke my skin, and it was bleeding.

As it turned out, she had bitten someone else before I arrived. I was told that she was a well-known prostitute, she was a heavy intravenous drug user and crack addict. Most importantly, she was a street person who was believed to be HIV-positive. She looked sick, her gums were bleeding, and I immediately knew that I was in trouble.

I went to Credit Valley Hospital, where I was told by a doctor that my risk of contraction was high. He advised me to take the drug cocktail and told me that it was 80% effective. The person who bit me refused to be tested. At the time, I believed that my life was in serious danger. The hospital needed me to pay for the medication before they would administer treatment. I called my fiancé, who brought down a credit card so that I would be able to pay for the drugs that could save my life.

The side effects were severe. I had chronic fatigue and nausea. The emotional effects were far worse. The doctor warned me that the drugs could cause cancer or birth defects, and I worried about the effects on my loved ones. I was able to get through the ordeal, thanks to the support from my fiancé, my family, my friends, my co-workers, my police association and my police service.

My story had a happy ending. I have been given a clean bill of health. My fiancé is now my husband, and we have two wonderful children.

I am here today because I went through a terrible ordeal, and I want to do whatever I can to lessen the burden for those who will surely have to go through what I went through. I can't give you figures on the risk or number of exposures; I can only tell you of my personal experience. It turned out that the person who bit me was in fact HIV-positive. I would have had to take the medication in any event.

I can't tell you what I would have done if, after taking the medication, the person had been tested and had been given a clean bill of health. What I can tell you is this: I can tell you that I would have based my decision on consultations with my physician. I can tell you that I

would have been able to make an informed decision with all the possible information. I can tell you that it would have taken away a lot of the uncertainty, the fear of the unknown. I can also tell you that the emotional toll is extremely high and that it is human nature to think the worst.

We need to be able to make informed decisions based on all the possible information. It's my sincere hope that the legislation can move forward as quickly as possible.

Mr. Bruce Miller: Thanks, Natalie. I don't know how much more I can add after your presentation. I think your story underscores the need to move this legislation forward.

The police officer who is bitten and then told by the offender that he or she has AIDS should be able to make an informed decision on treatment. The sexual assault victim has the same common-sense right. A good Samaritan who performs mouth-to-mouth resuscitation on an individual has the right to know whether or not he or she has put his or her own health at risk.

1600

We have countless examples of deliberate attacks on police personnel by people with, or claiming to have, HIV and other diseases. Rubber gloves and universal precautions only reduce the risk. We have had members spat upon, deliberately bitten and exposed to free-flowing blood and other bodily fluids by an attacker or individual. I know because it happened to me numerous times.

Lax federal laws and inadequate legislation and sentencing provisions only serve to increase the incidents. We need to protect victims and those who protect us. We respect the right to privacy, but at some point that right must be balanced with the need to protect society.

Mandatory blood testing would allow individuals to make properly informed decisions about post-exposure treatment. The so-called drug cocktail that is administered to post-exposure victims brings its own well-documented medical risks.

We are also informed that physicians will treat a person more aggressively if they know that the individual who may have infected the person tested positive. This legislation can help to save lives.

We've reviewed the legislation in detail and are not proposing any amendments. In support, we would like to thank Garfield Dunlop and Minister Kwinter for all their efforts, and call upon the members of all three parties to move this legislation forward as quickly as possible.

We'd be pleased to answer any questions you may have.

The Chair: Thank you very much. We should have three or four minutes for each party, beginning with Mr. Dunlop.

Mr. Dunlop: I just want to say thanks for coming again. I talked to you last week at police lobby day, and you mentioned at that point that you had no amendments. I want to thank you for being here.

Natalie, I want to thank you again. You were there in 2001 or shortly after—that was before you had the two babies, I think. I just want to congratulate you for keeping up this challenge that you've faced in the past. When-

ever we hear the story, it brings this whole issue back to heart. As long as you can keep telling that story, I think you'll be helping police officers and good Samaritans across the province.

I have no other comments.

The Chair: Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. Have you any suggestions for the worst-case scenario, where the respondent doesn't co-operate so you then go through the process, and the last recourse, I guess, is for the victim, whether it be a police officer or a paramedic, to go before the Superior Court? Have you any suggestions that you would recommend for that process with respect to a police officer?

Mr. Bruce Miller: As I said, we've looked at the legislation, and there is a balance dealing with privacy issues—our solicitors have looked at it as well. I suppose, in our hearts, police personnel like to see the timelines tightened as much as possible, but realistically, that opens up legislation to charter challenges. Our lawyers have told us that they believe the right balance has been achieved and that any further tightening of timelines would result in our losing on a charter challenge. The timelines have been shorted from about 65 or 70 days to about 15 or 16 now, so it's far superior.

We did have some problems—certainly medical officers of health expressed a lot of reservations about acting as judiciary or making decisions on this matter. So I think the new process with the Consent and Capacity Board, who are used to making these types of decisions, will work far better.

The Chair: Mr. Kormos.

Mr. Kormos: Thank you, folks. Look, everybody supports the legislation. I suppose it's far more important that we hear if there are any caveats; in other words, if there are any warnings we should be getting about the legislation in terms of anything being ineffective or not being as effective as it should be. Yes, we should be moving with and looking forward to making sure—look, nobody proposed amendments the first time around. That's fair enough—it's not a criticism of anybody—but experience has demonstrated the need for them.

I was telling the Chair that I've shed some blood myself in my life, but that was when I was much younger, Ms. Mossop. It was down at the Kingsley Hotel. It was called the Bucket of Blood. I was much, much younger. And I wasn't the only one shedding blood, I've got to tell you.

In any event, thank you very much. It's important stuff. That's why, Ms. Luski, if we can get a better handle on the data as to who is complying and who is not, I think that's interesting. Again, the assumption is that it's the people charged with crimes who are less likely to comply in general. There don't appear to have been any legal challenges in the data that has been presented to us by ministry people. Could we find out whether in fact—and how do people respond? Have people been represented by lawyers? Just to get a better sense of the experience in the 76 cases or so to date.

The Kingsley Hotel has quieted down significantly. They're all over 65 now. They can't fight anymore.

Mr. Bruce Miller: I'd just like to thank you for your support too, Mr. Kormos. I know we had your leader out to speak to our members last week, as we did Mr. Tory and Premier McGuinty, and all three leaders expressed their support. It's greatly appreciated.

Mr. Kormos: Thank you kindly.

The Chair: It's good to know you marked up the other guy as well.

Mr. Balkissoon.

Mr. Balkissoon: Mr. Miller and Natalie, thank you for taking the time to come here and for sharing your story with us. I want to thank your association for the work you've done.

Mr. Bruce Miller: I'd just like to take the opportunity to thank Natalie for all her work. These things aren't easy for people to walk in off the street and do, and we certainly appreciate everything she's done for our 30,000 members.

Mr. Balkissoon: We do too.

The Chair: As the Chair comes from Peel region, thank you very much, Natalie.

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Chair: The Ontario Professional Fire Fighters Association, please. Take a seat anywhere. Make yourselves comfortable. You have 20 minutes to make your deputation this afternoon. If there's any time remaining, we'll divide it among the parties for questions. At your convenience, please introduce yourselves for Hansard and then proceed.

Mr. Brian George: Thank you, Chairman Delaney and members of the committee. My name is Brian George. I'm the executive vice-president of the Ontario Professional Fire Fighters Association, a 22-year veteran of the London fire department and a captain on the London fire department. With me today is Jeff Braun-Jackson, our office manager and the researcher for the OPFFA. Fred LeBlanc, president of the OPFFA, sends his regrets that he is unable to attend today. Thank you for this opportunity to address this committee.

The Ontario Professional Fire Fighters Association is a professional organization representing 10,000 full-time professional firefighters from across Ontario. The OPFFA serves our members' interests in numerous ways, from education to representation on matters concerning health and safety, workers' compensation benefits, pensions and legislation.

Our membership consists of firefighters who perform emergency response, prevention, public education, investigation, training, communications and maintenance. The priority of our members, as detailed in our code of ethics, is a commitment to the protection and preservation of life and property.

The OPFFA supports the objectives outlined in Bill 28, the Mandatory Blood Testing Act. As an organization

representing first responders, the OPFFA takes very seriously its responsibility to protect our members from being adversely affected by illness and disease. Our organization supported Bill 105 in 2001, and we continue to lobby for improvements to protect our members against illness and disease.

Our brief will provide examples from the front lines that will illustrate the need for Bill 28. As well, we outline a few recommendations that we feel would, if adopted, improve the bill to make it stronger and more effective.

Bill 28 seeks to replace section 22.1 of the Health Protection and Promotion Act, 2001. This section of the act specifies the procedures in which a police officer, firefighter, emergency services provider or good Samaritan could ask for someone to submit to a mandatory blood test in order to determine whether or not the first responder had been exposed to a blood-borne illness. The act did not come into force until 2003. However, it became apparent to stakeholders that the procedures spelled out in the legislation were cumbersome and inefficient, often making it extremely difficult for firefighters to determine in a timely manner whether or not they had been exposed to blood-borne pathogens.

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We have participated in stakeholder meetings that were held during 2005 and expressed our concerns at that time. Some of those concerns were as follows: Firefighters are increasingly called upon to provide a variety of emergency responses including, but not limited to, vehicle extrication, resuscitation and defibrillation. The provision of these services creates an additional risk for firefighters to come into contact with blood and bodily fluids from individuals requiring medical attention. Firefighters are required to act quickly to save the lives of fellow citizens, often without regard for their own safety. In a fire or medical emergency, firefighters often suffer cuts and scrapes because of the difficult, and at times restrictive, working conditions and environments.

Firefighters, unlike almost all other occupational groups, cannot refuse to carry out dangerous work as specified in part V, subsection 43(2) of the Occupational Health and Safety Act. Firefighters have no choice but to enter a burning building or use the jaws of life to remove an injured person from a mangled automobile. As such, firefighters must have the means necessary to make themselves aware of potential life-threatening illnesses that are contracted through the exchange of blood and bodily fluids. The right of a firefighter to know that he or she has been infected with an infectious disease such as HIV/AIDS or spinal meningitis outweighs the right to absolute privacy that an individual enjoys with respect to medical information.

The current time frame established in the act is too long. If a responder has been exposed to AIDS or HIV, he or she has approximately three hours to decide whether or not to take the drug cocktail as part of the post-exposure prophylaxis, commonly known as PEP. The drug cocktail contains numerous harmful side effects

for that individual. Equally significant is the fact that a firefighter may not know whether he or she has been exposed to a blood-borne pathogen. The emotional and psychological anxiety caused by not knowing affects every facet of a firefighter's life: relationships with spouse, children, family and friends. Such needless anxiety and stress can be mitigated by reducing the long waiting period from application to decision in seeking to obtain the results from a blood test.

There were concerns as well about the process for securing information. For example, the medical officer of health had to transfer the application to the health unit of the respondent, the person from whom the blood test would be taken. If the individual was not from Ontario or was homeless and without a permanent address, needless delays would be the norm.

Unfortunately, as a front-line firefighter, I have had the experience of dealing with this myself. In the early part of this year, I was dispatched with my crew to a bicyclist struck by a truck on one of the busiest thoroughfares in London. The individual on the bike did not stop at a stop sign and rode directly into the path of the truck. The bicyclist suffered major head trauma, internal injuries and fractures, and was bleeding profusely. When we arrived on scene, a single officer was attending to the patient. My crew went to work to stabilize the patient immediately. When the paramedics arrived, it was decided to immobilize the patient as quickly as possible. The individual was violently thrashing around, due to his head trauma. While the firefighters and paramedics tried to restrain the patient, I went to assist them to hold down the legs while the paramedic tied him to the back board. The individual ended up kneeling me in the chest and knocking me forward, while unfortunately he coughed a mouthful of blood and saliva into my face. His bodily fluids had found a transmission point through my eyes at this point.

We have always used universal precautions in my department, but we had not been supplied with any protective eyewear for this type of incident. I immediately went to my truck in order to get the anti-viral hand cleaners that we used and used these to clean my face and even tried dispensing some of this into my eyes in order to disinfect them. As I was doing this, a woman who had witnessed what had happened came over to me to tell me that this man was a patient at the nearby methadone clinic where she worked, and that he was an chronic IV drug user and known to be a hepatitis C carrier and possibly HIV/AIDS-positive as well. You cannot imagine my sudden discomfort.

As soon as we finished assisting at the scene, we went directly to the emergency ward at the hospital to see what needed to be done. The paramedics had already alerted the physicians, because they had been exposed as well. I wanted to know what I needed to do as soon as possible. They indicated that a direct blood-to-blood transfer was the worst-case scenario and that my type of exposure was a lesser probability of contamination. If I was to start the post-exposure prophylaxis, I would need to start it within

a short while. The individual was not conscious, and they could not get consent for a blood test or even ask the questions. Blood tests were taken for other treatment reasons. The physicians told us that if I filled out the forms, it would take forever in the bureaucracy to get the answers and the results, and that would be longer than I would have to wait to start the PEP anyway. They wanted me to wait for a short while before I started my PEP treatments. I took the physician's advice and went back to our hall to package our gear for decontamination.

A short time after arriving back at our hall, I received a phone call from someone who would not identify themselves; however, they knew enough details to make the phone call legitimate. The individual was not HIV-positive but had tested positive for hepatitis C. The individual has never regained consciousness to this date and has no known relatives. No person would have been able to give consent for that blood test.

There is no treatment for this hepatitis C. I have been going through monthly testing since the incident, since the exposure, and I will continue to do so for up to two years. Fortunately, to date I have received a clean bill of health each time, thankfully. The emotional stress this has put on myself, my spouse and my family is immense. I am told the likelihood of contracting this disease from this type of transmission is very low. While that is reassuring to hear, it still does not alleviate the unknown. This law would have eliminated the need for that late-night phone call.

The OPFFA acknowledges that requiring someone to submit to a blood test is not desirable. However, the constitutional protections afforded to Canadians under the Charter of Rights and Freedoms are not absolute but rather are subject to reasonable limits. We believe that when a firefighter, police officer or emergency responder has reasonable and probable grounds to believe that he or she has been exposed to a blood-borne pathogen, it is crucial that the blood and/or bodily fluids of that source person be tested immediately. We recognize that privacy and confidentiality must be vigilantly protected in our society, and safeguards can be put in place to secure the information provided as a result of a mandatory blood test. The risk of infection, the needless emotional and psychological anxiety caused by not knowing whether or not you are infected and the likelihood of having to endure a PEP to limit the consequences of any exposure are reasonable limits on an individual's right to privacy.

Our position is as follows: We support Bill 28 because the legislation recognizes the need for first responders to be protected from exposure to blood-borne pathogens and diseases as a result of their working conditions. While the government has taken great strides to improve the current system through legislation, there are some areas of the bill that the OPFFA feels can be strengthened to make it better, more comprehensive and more effective in protecting firefighters, police officers, emergency workers, victims of crime and good Samaritans.

We make the following recommendations:

We support reducing the amount of time that a firefighter must wait before a decision to require a blood test

is made. We also support transferring responsibility for the decision from the local medical officer of health to the Consent and Capacity Board. It is our understanding that the Consent and Capacity Board can meet as one person. Given that the nature of our work requires a response 24 hours a day, seven days a week, it is highly conceivable that an exposure could occur during nights, weekends or holidays, when others may not be readily available to address an exposure request. Therefore, should a firefighter be exposed to blood or bodily fluids while performing his or her work and that individual believes that the person whose blood and/or bodily fluids came into contact with them may be infectious, he or she should be able to have a member of the board issue a request for the source individual to submit to a blood test if that individual's medical records cannot be accessed or made available. The burden of proof is on the applicant to show just cause in requiring the blood test from the source person as it is in the bill.

In conjunction with streamlining the process for requesting a decision, we suggest that the minister consider that the Office of the Information and Privacy Commissioner be involved in the process. A representative from the Office of the Information and Privacy Commissioner could act as a safeguard to ensure that the privacy of the source person be protected should he or she be required to submit to a mandatory blood test. The inclusion of a representative from this office would not only make the process transparent but would allay the fears of those who believe that the source person's blood sample results may be used in ways that are harmful and injurious.

We would support the inclusion of spinal meningitis in the prescribed list of communicable diseases.

We would advocate that the privacy concerns of firefighters and other first responders, with respect to names and addresses, be acknowledged in the same manner as the person whose blood is being tested.

Firefighters do suffer emotional and psychological stress as a result of not knowing whether or not they have been infected, as well as physical side effects from medications taken to deal with exposure to an infectious disease. We believe that these areas should be eligible for workers' compensation, similar to other workplace injuries and any other programs made available.

In keeping with the concept of dealing with and/or mitigating exposures to infectious disease, if possible, enact a regulation that mandates the use of safety-engineered sharps devices to protect first responders and health care workers from being injured by needles.

In conclusion, the OPFFA strongly supports Bill 28. Our members require protection from infectious diseases caused by blood-borne pathogens. We respect the right of privacy of all Canadians enjoyed under the Charter of Rights and Freedoms but believe that the right is not absolute and needs to be balanced in specific circumstances.

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Firefighters and other first responders must have the ability to determine quickly and efficiently whether or

not they have been infected by contact with another person's blood and bodily fluids. Bill 28 will ensure that this is a reality, and we thank the government, specifically Minister Kwinter, for introducing this legislation.

The Chair: Thank you. We have time for a brief question from each caucus, beginning with Mr. Kormos.

Mr. Kormos: Thank you very much. No quarrel. However, I've got to raise this. If you look at the flow-chart that the ministry provided, it's a little confusing for me. There's a suggestion that after the medical officer of health reviews the application, he or she can do one of two things: to proceed to seek the voluntary compliance or dismiss the application. I don't understand that because, in the bill itself, there doesn't seem to be any discretion on the part of the medical officer of health. If an applicant falls into one of those categories, then the medical officer of health is compelled—he or she doesn't weigh the risk—it's the CCB, under the bill, that will determine whether it's arguable that the exposure was of such a type that it doesn't warrant a blood test.

I'm using my brief time with you to raise that—if we can get that answered and resolved before we're finished here. It's just confusing to say the MOH can dismiss the application when there's no discretion whatsoever in the bill. And I'm not suggesting that there should be, because that discretion will be exercised at basically the review level of the CCB should somebody not voluntarily provide.

Otherwise, thank you for your comments.

The Chair: Do you have a response on that?

Mr. Kormos: No, I don't expect these folks to. I'm raising that—

Interjection.

Mr. Kormos: I was looking over their shoulder, yes.

The Chair: All right. As it's now the turn of the parliamentary assistant, did you have any response to Mr. Kormos? In any event, it's your time.

Mr. Kormos: We'll leave it to the staff.

Mr. Balkissoon: We'll leave it up to the ministry staff, as we get to clause-by-clause, to come back and provide clarification, Mr. Chair.

I just wanted to say to the deputants, thank you very much for being here and giving us your input and your comments on the IPC and spinal meningitis. I will ensure that the minister is aware of your request.

Mr. George: Thank you.

The Chair: Mr. Dunlop or Mr. Miller?

Mr. Dunlop: Very, very similar comments. If it's possible to make some of these minor amendments, we certainly would consider that next week. We'll see what happens, some of the advice of the ministry staff etc. But again, thank you for being here. I wasn't aware, Brian, that you'd gone through that this summer. I'm sure there's a little bit of pressure on yourself as well.

Mr. George: Unfortunately, I'm not the only one in our department. This is a quite regular incident. It doesn't happen to every single firefighter or police officer, but it does happen on a more-than-often regular basis now, and

that's why we're here supporting the bill and why we supported yours back in 2001 as well.

Mr. Dunlop: In the consultations we did even in 2001, we were getting guys, firemen, who were getting the crack houses with needles hidden all over the place, below the vanities and this sort of thing, the kitchen sink, you name it. There were incredible stories they came out to tell. It's too bad that more people couldn't hear some of those stories to understand why we really do need this kind of legislation, and the quick response as well.

Mr. George: Thanks, Mr. Dunlop.

The Chair: Mr. Miller, did you have a question?

Mr. Norm Miller: Certainly. In your presentation, you said that you need to know within three hours in the case of, I think it was, AIDS. It could be 19 days or longer if you get an unco-operative respondent, so how do you address the three-hour situation?

Mr. George: Three hours is the time period in which you need to take the post-exposure prophylaxis, so if something can be done so you can get that. Hopefully, you have an individual on the other side who's willing to say yes or no and give you that information. However, unfortunately, in my case, the individual is still not able to, and I know that in Officer Hiltz's case, that individual is not willing to. There needs to be something in there that gives these members that ability to quicken up that time frame.

Mr. Norm Miller: So are you going to make the suggestion in terms of your situation, where the individual you were dealing with, as you said, is still not conscious?

Mr. George: No.

The Chair: Before I moved away from the government side, I missed Mr. McMeekin's body language. The government side still had a little bit of time remaining, so my apologies. Mr. McMeekin has a question.

Mr. McMeekin: Thanks very much. I just so appreciate your coming out and sharing, and Mr. Miller and his colleague are as well.

I'm of the opinion, frankly, that the benefit of the doubt ought to go to those folks who put themselves in harm's way. I'm wondering about the science here. I know Mr. Miller made some passing comment about charter concerns and legal issues, and I'm assuming that we've had some discussion about that. But I'm wondering if, either through a staff person here or the clerk, we can have whatever information has been gathered about the timeline around the science, because, frankly, I'd be prepared to be even tougher if that's what it takes to protect the front-line folks. So I ask a generic question about the science and about the law.

Surely to goodness, there have to be ways. You bite somebody: You give up some of your rights right there. If you're in that class, if there's some clear evidence of that, I'd make it—poof, right on the spot, if there was clear evidence of that.

I just raise that question. I don't know who can answer it, but I want to get it on the record.

The Chair: Any further comment?

Mr. George: I'm not able to answer that.

The Chair: Okay. That's not surprising. Thank you very much for having come in today.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Chair: The Ontario Association of Fire Chiefs, please. I'd like to welcome you both this afternoon. You have 20 minutes for your deputation, and if you leave any time remaining, I'll divide it among the parties for questions to you. Please begin by introducing yourselves for the purposes of Hansard and then proceed.

Ms. Cynthia Ross-Tustin: Thank you, Mr. Chair. My name is Cynthia Ross-Tustin. I'm the deputy fire chief for the town of Bradford-West Gwillimbury. I'm here with my colleague Mr. Ghislain Pigeon from the Hawkesbury fire department; he's their chief. We're here representing the Ontario Association of Fire Chiefs.

It's my pleasure to be here before you today and speak for our members. We have approximately 487 members within our association, but we represent over 29,000 firefighters. That's both full-time and volunteer. We are the leaders of the fire service, and we feel very strongly in support of this bill. We would just like to maybe speak to some improvements to it.

I would also add perhaps for Mr. McMeekin, I'm an ICU trauma unit nurse by trade, and I have dealt with this issue, unfortunately, on both sides of the fence. I look after my staff and their health issues and their concerns when we deal regularly with violent patients, violent people on the scene or a traumatic scene from an auto extrication, but I've also been in the emergency room when we have people whom we know or have serious reason to believe are HIV-positive, and we cannot share that information, and these people need it. These are the people on the front line, these are the people protecting the people in your municipalities, and they're the people who don't have a choice.

So briefly, we would like to thank everybody for the support of this bill. I think we're all in agreement. I hear my colleagues saying the same thing. We were all at the table in support of Bill 105. We found it very cumbersome. We dealt with the stakeholders' groups after the fact, with Dr. Sheela Basrur, when the stakeholders were convened, and we very much appreciated the opportunity for input at that time.

The primary thing that came out of all that stakeholder input was that the process is cumbersome and it takes too long for those who put themselves at risk to get an answer whether or not they need to take the PEP—here we go—the post-exposure prophylaxis. And it gets even worse when you start to look at the antiretrovirals that are necessary for this process.

Again, we are in support of Bill 28 because it makes substantial improvements to what has happened in the past, and I believe they've taken the stakeholders' groups into consideration when it comes to these improvements. But from a medical point of view, having worked with this, 24 to 48 hours is when you need to find out before one of us will go through what's called seroconversion and our T3s and our C4 cells are different. That's not a

lot of time before we go ahead and have to take the "toxic cocktail," as it's referred to.

We call it that because it's not just one drug, an AZT or a multitude of other things; it's several drugs. It's as toxic and as harmful to you as chemotherapy, and I don't know that anybody in this room would willingly hop on the bus and take chemotherapy. You've heard about some of the side effects, but those are some of the easier side effects: the exhaustion, the nausea, the vomiting, the diarrhea. But a lot of people don't tell you, when you're having to decide whether or not you want to take this toxic cocktail, that it affects your lipid and your fat levels; it can either elevate them or lower them to the point where you can have cholesterol issues. It can also cause the fat to store in your body; it can completely change your appearance with the fat deposits on your face.

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There are a lot of issues. Some of the simple facts are that people are too exhausted, too sick to go to work. People who were otherwise active, vital, healthy people who were out there responding to emergencies are now sick at home simply because they've had to take medication that they really had no choice about, no other option. That affects our fire and emergency services. If those workers are sick at home, they're not at work. These are highly trained, effective people and they're at home sick, not able to do what they do best. That affects the municipality. That affects our workload.

The other side of the coin that you need to look at is that a lot of these people—19,000 firefighters in this province—are volunteer firefighters. Who's looking after their interests when they have to wait? A lot of these people don't have protection or long-term health benefits. Some of these people have to take the cocktail, they're sick at home, and they have no money; there is no money coming in to support them. Who looks after them? That's a heck of a risk to ask somebody to take for free, to volunteer to do. It's going to affect a lot of issues. Would you volunteer to put yourself at that kind of risk? It's going to be more difficult.

These are some of the issues we face as the leaders in the fire service. What do we do when our people are affected or infected, as the case may be? It causes a great impact on our service and it causes immeasurable impact on the lives of emergency service workers, people who had no choice other than to go and respond.

We respect the rights of those to their privacy and we support the amendment to make sure that their names stay private. We also support the concept that the firefighters' names need to remain private. But I believe that the needs of the many perhaps may outweigh the needs of the few. We can't continually ask people to put themselves in harm's way and then be in harm's way after the fact; it's an awful lot to ask.

In summation, I'll reiterate what all of my colleagues have said. We appreciate Mr. Kwinter's bill. We appreciate the support for emergency workers. We think this is an excellent bill. We would just really like it if you would tweak the timeline and make it a little more

effective and a little more immediate. The compelling of a sample is quicker, easier, faster and—I hate to say it—cheaper than the thousands and thousands of dollars it would take to—the last quote I heard when I was still practising nursing is that the HAART, the highly active antiretroviral therapy, starts at about \$19,200 by the time you take into consideration all the blood work, the care, the process and the follow-up required, as opposed to a simple blood test. It's also easier in northern Ontario to get a blood test than it is to get your hands on anti-retroviral.

Thank you for your support. If you have any questions, Mr. Chair, we appreciate your time.

The Chair: Thank you very much. Mr. Balkissoon?

Mr. Balkissoon: I just want to thank you very much for taking the time to come here and be with us to share your thoughts. Let's hope we'll have some experience over the next coming years that if we can do anything, we will.

Ms. Ross-Tustin: Thank you, sir.

Mr. Norm Miller: Thank you very much for your presentation. Do you have any specific suggestions for amendments to speed up the timelines?

Ms. Ross-Tustin: We believe that the 24 to 48 hours is the most appropriate in which to compel a blood sample. That's where we need to make the assessment to change—anything after that, if we don't have an answer, we have to take the cocktail. Nobody is willing to risk or take the gamble. You have to give us an answer, positive or negative, within that time frame so that our staff, your people, can make those kinds of decisions. Otherwise, it's rather a moot point.

The Chair: Mr. Kormos?

Mr. Kormos: Thank you very much. An interesting and very bold submission. I appreciate the candour, because you're quite right: At the end of the day, a seven-day or nine-day time frame will simply give the victim of the infection the comfort of knowing that he or she isn't infected. Is it fair to say that there are some—can HIV necessarily be detected within seven to nine days? Might it sometimes take longer?

Ms. Ross-Tustin: There is a small portion. If somebody has been recently infected with HIV, they may not have seroconverted.

Mr. Kormos: So you still have the problem of the bleeder having HIV. The victim—the firefighter or paramedic—knowing that the bleeder has HIV, has a high anxiety level. Obviously, the world just gets turned upside down for him or her and their family. Then they get tested and they're told, "You don't have HIV, but you still might." But here's the dilemma: Three hours was the optimum time for the PEP dosage, and then 24 to 48 hours I presume is the outside time. What do you do in a community, especially—you're right—like northern Ontario? The medical officer of health is on vacation with his or her spouse and kids. The medical officer of health is testifying at some committee hearing in Toronto. Seriously, these are real problems. And also—and this is where we have to get some help, folks, from the ministry with the data, because Ms. Drent, in her research paper,

says that in most cases applications are dismissed, which is where she talks about the very few orders that are issued. What are you suggesting?

I wondered in the first round—Garfield might remember—why a justice of the peace wasn't involved. Because they're usually available 24-7, they're more readily available. A JP can weigh the law. You've got the medical evidence, the prima facie evidence of the doctor. At that level, it's not rocket science, because all you'd have to know is that there's blood and contact, right? So it ain't rocket science at that point. JPs are more readily accessible, and you have judicial oversight, then, of this intrusive entry into somebody else's body, which is a factor in the Charter of Rights and so on. So I'm wondering, Chair—and ministry staff will have a chance to talk about this in clause-by-clause—how do we address these particular concerns? Why isn't a JP, notwithstanding the chronic shortage—that was a partisan comment—

Mr. McMeekin: I got it.

Mr. Kormos: You picked it up, did you, Ted?

Mr. McMeekin: I'm pretty sharp.

Mr. Kormos: Why isn't a JP being utilized as the gatekeeper here, if you will, as the controller? That way you really could have a one-hour or two-hour turnaround. Because a person either voluntarily—a paramedic taking people in on a stretcher, or a firefighter: "Will you give blood?" "Yes, I'll give blood for testing." No? Boom. Get an application form in front of a justice of the peace, who is usually, or ideally should be, available 24-7. I don't know. We should get answers to that.

The Chair: Thank you. The repartee and the questions to the ministry notwithstanding, did you wish to make any comment on that?

Ms. Ross-Tustin: I'm not sure I can answer all of Mr. Kormos's legal questions, Mr. Chair, but I noted that Mr. McMeekin pointed out suspicion as well as probable cause. In 1995, emergency service people from across Canada got together. We've done, I believe, the best job we possibly can in putting all the pre-screening things in there. We've done all we can do to protect our workers. We have developed guidelines; we have put in place all the recommendations from the medical field for personal protective equipment; we encourage our staff to have their vaccines. Obviously, there is a vaccination for hep B; we're hoping for hep C. Toronto has done some of the best research in the world on AIDS, so perhaps the first vaccine will come from here. We have put protocols in place to work with health care people and the screening process, so when somebody goes perhaps before a JP or somebody else, they have more than just a little bit of reason to believe that this person is infected with HIV. The homework has been done, the screening process has been in place, and a doctor is recommending with very solid background that this person has been exposed and there's probable cause for this person to be compelled to have their blood tested.

That would be my remaining point. I thank you all for your time.

The Chair: Thank you very much for having come in today.

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ASSOCIATION OF LOCAL PUBLIC HEALTH AGENCIES

The Chair: Our final deputation is from the Association of Local Public Health Agencies.

Mr. Kormos?

Mr. Kormos: Chair, through to Ms. Luski from legislative research: JPs sign search warrants all the time, including body searches and cavity searches. There have even been search warrants that involve items, as I recall it, under the skin or ingested. Could we get legislative research to just give us a brief overview of the extent to which JPs grant search warrants? How intrusive? Can they sign a search warrant that permits, let's say, a search for something that might be contained in the intestines—presumably the lower intestines, hopefully, for the sake of the person being searched—in the context of pulling blood for the purpose of this legislation?

The Chair: Thank you. So noted.

Good afternoon and welcome. You'll have 20 minutes for your deputation. If you leave any part of that time remaining, it'll be divided among the parties for questions. Please begin by introducing yourself for Hansard and then proceed.

Dr. Rita Shahin: Thank you. Mr. Chairman, members of the committee, good afternoon. My name is Dr. Rita Shahin and I am here representing the Association of Local Public Health Agencies, or alPha. alPha represents the interests of boards of health, medical officers of health and affiliate groups who work in the field of public health. I am pleased to be here this afternoon to address you on the very important issue of mandatory blood testing.

I would like to acknowledge the very real anxiety and concerns of those covered under this bill, particularly first responders who may, during the course of their duties, be exposed to the blood or body fluid of others. As a physician, I know first-hand how difficult and stressful this can be. I am thankful for their hard work and commitment to public safety.

Before addressing Bill 28 specifically, I feel it is important to clearly understand the degree of risk posed by these types of exposures. The risk of transmission of blood-borne pathogens in these types of situations is extremely low. In fact, to my knowledge, there has never been a case of occupational transmission of blood-borne pathogens in police, firefighters, ambulance attendants or correctional staff in Canada. Those who face the highest risk of transmission are laboratory workers and health care workers, particularly operating room nurses and surgeons.

The main diseases of concern from exposure to blood or body fluids are hepatitis B, hepatitis C and human immunodeficiency virus, or HIV. Of the three diseases, hepatitis B is the one that is most likely to be transmitted, with 6% to 30% of people becoming infected following a significant exposure such as a needlestick injury. How-

ever, hepatitis B infection is also preventable by means of a safe and effective vaccine. Universal hepatitis B immunization is offered to all grade 7 students in Ontario, and occupational immunization programs are available to ensure that first responders and health care workers are adequately protected.

The risk of transmission for hepatitis C falls between that of hepatitis B and HIV: 1.8% of people will become infected with hepatitis C following a needlestick injury from an infected source. There is no vaccine to prevent infection prior to exposure and no drugs currently available to prevent infection following exposure.

The risk of infection with HIV is much lower than that seen for either hepatitis B or hepatitis C. Following a needlestick injury from an infected source, 0.3%, or three of every 1,000 people, will become infected with HIV. The risk is even lower, 0.1%, for blood splashes onto mucous membranes—those include the eyes and inside of the nose or mouth—or onto broken skin. Antiretroviral drugs, also known as post-exposure prophylaxis, or PEP, are available to prevent infection following the exposure. These drugs must be started within one to 72 hours after the exposure, and ideally between one to four hours to be the most effective, and are taken for a four-week period. The drugs have serious side effects in up to 50% of people taking them, and it's estimated that one third of people usually discontinue the medications before the four-week period is over.

Mandatory testing cannot be used to influence the decision to start HIV post-exposure medications as it cannot occur quickly enough to inform the decision-making process. It may be helpful in making a decision to stop these medications before the end of the four-week period. However, even a negative HIV test result may not be accurate if the source person is in the early stages of HIV infection, and the early stages is the period when that person is most infectious to others. The legislation does not include obtaining clinical or risk-factor information on the source person; therefore, the drugs may be stopped on the basis of a negative test result when in fact they should be continued based on the risk factors of the source person.

The best way to prevent these infections is through comprehensive pre-exposure programs that provide pre-exposure immunization for hepatitis B, education on the use of personal protective equipment, access to adequate supplies of personal protective equipment, and protocols for prompt assessment, counselling and follow-up of exposures, including immediate access to antiretroviral treatment for HIV at no cost, should this be necessary. Access to post-exposure prophylaxis across Ontario right now is quite inconsistent, especially in smaller urban or rural centres.

Pre-exposure programs are currently in place to protect first responders and health care workers. These programs must continue to be adequately staffed and resourced and keep up to date with advancements in knowledge related to blood-borne pathogens. Again, it is important to note that we have never had a occupation-

ally-related documented transmission to first responders in Ontario or Canada.

Bill 28 seeks to replace the current section 22.1 of the Health Protection and Promotion Act. Section 22.1 has been in force since September 2003 in Ontario. In the first two years that section 22.1 has been in existence, 58 applications for the taking of blood samples were brought forward to medical officers of health in Ontario. Just over half of these applications, or 31 to be exact, were successfully resolved using the voluntary process. One order was issued, and the rest of the applications were either dismissed or refused for not meeting the current requirements. To the best of my knowledge, the order that was issued was not complied with. Taking a blood sample from someone who has not consented to the procedure creates serious logistical issues for the health care provider who must draw the blood. Is the blood to be drawn by physically or chemically restraining the respondent, and how can we ensure the safety of the health care provider who must draw the blood?

Mandatory blood testing appears to address mainly the issues of side effects of antiretroviral therapy and the anxiety of not knowing whether the respondent is infected with a disease. This seems to be an extremely broad interpretation of the risk to health that must be present in order for an order to be issued. Given this low risk to health and the difficulties inherent in trying to obtain a blood sample from someone without their consent, I do not feel that there is sufficient evidence to warrant mandatory blood testing in Ontario.

Bill 28 has three significant changes from the current section 22.1 of the Health Protection and Promotion Act. The first of these is to shorten the timelines for the voluntary process by five days, bringing it down to two days from seven. The second is to refer the application for decision-making to the Consent and Capacity Board instead of the local medical officer of health. Finally, Bill 28 removes the right of appeal for both the applicant and the respondent. I would like to address each of these three changes.

Shortening the voluntary process will result in both potential benefits and harms to applicants. This change will decrease the number of applications that the medical officer of health can successfully resolve voluntarily, as it can often take a couple of days to locate the respondent, particularly if they are in a correctional facility. This will result in more applications moving to the mandatory stage of the process, lengthening the overall time it will take to resolve the situation. Reducing the voluntary period will reduce the overall time to reach a decision by five days; however, the entire process may still take up to three weeks to resolve, taking into consideration the many steps along the way. This still does not address the issues related to HIV post-exposure medications, as applicants would be finished most of the course of the medications before a test result is received.

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I would like to now address the second change in Bill 28, which shifts the responsibility for applications from medical officers of health to the Consent and Capacity

Board. Medical officers of health have had serious concerns with their current role under section 22.1 of the HPPA, as this has moved us out of our role as an advocate for the public's health into a quasi-judicial role, ruling on the competing interests of two individuals. However, the changes in the bill do not go far enough to address our concerns. Our role or involvement in the process should stop after the voluntary process has ended. The bill, as it is currently drafted, requires the Consent and Capacity Board to order the medical officer of health to provide a lab requisition form in order for the respondent to be tested, should the board rule in favour of the applicant. The Consent and Capacity Board should order the respondent directly, without involving the medical officer of health in the process. We would suggest that the Consent and Capacity Board hire a physician who can provide them with the medical advice needed to consider these applications and who can also provide the laboratory requisition, should an order be issued. Another alternative would be to issue the order to the respondent's health care provider, who can then provide the lab requisition. Involving us in the order process jeopardizes our role in working with both exposed and infected individuals.

Subsection 9(5) of the bill states that, "Nothing in this act creates a physician-patient relationship or other relationship of trust between a medical officer of health and an applicant or respondent." In the event that a respondent is found to be infected with a blood-borne pathogen, I believe there's still an ethical obligation on the part of the medical officer of health, if they are the testing physician named, to ensure that the individual receives appropriate care. Again, this goes against the role of the medical officer of health, who is not usually in the business of providing clinical care to individuals.

Finally, I would like to express my concerns about the removal of the appeal process for either the applicant, the respondent or the medical officer of health, who may be in disagreement with the board's decision. I would argue that a much more significant risk to health should be present before the rights of the source person to consent to blood testing are abrogated without right of appeal.

In conclusion, if mandatory blood testing must continue to exist in Ontario, this bill should be amended to restrict the role of the medical officer of health to the voluntary process.

Mr. Chairman, members of the committee, I would like to express my gratitude for the opportunity to address these issues.

The Chair: Thank you very much. We should have time for a question from each caucus, beginning with Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. Just in terms of the time factors involved, I have a question to do with an HIV test. If the bleeding person does voluntarily comply to a test, what sort of time frame is involved in terms of knowing the results of that test?

Dr. Shahin: Currently, if somebody voluntarily consents, the central public health laboratory will perform

those tests on an expedited basis, and we can have those results back usually within 24 hours. There is a new rapid test for HIV that's available that can provide tests within 10 or 15 minutes. However, that test is not provided to health care providers in Ontario at this time.

Mr. Norm Miller: So there is actually a test that's 10 or 15 minutes, because time seems to be the big concern—

Dr. Shahin: That's right.

Mr. Norm Miller: —if you're the person who may be infected by contact with someone who has HIV, in terms of making that big decision to take a month's worth of toxic drugs or not.

My second question—

The Chair: And it should be a very short one.

Mr. Norm Miller: My very short second question has to do with the cost factor. You say that the access to antiretroviral treatment should be at no cost. Is there a cost? We had one person earlier say that they had to pay out of their pocket. I was kind of surprised by that, to be honest.

Dr. Shahin: The cost runs into \$1,000 or \$2,000, depending on which drugs are prescribed. Most workplaces may cover that cost. However, for a good Samaritan—

Mr. Norm Miller: So it's not covered by OHIP?

Dr. Shahin: No, it is not. So a good Samaritan who's exposed would have to pay out of pocket unless they had private insurance.

The Chair: Mr. Kormos.

Mr. Kormos: Thank you very much—very interesting insights. But let's be fair: Over the course of two and a half years, there haven't been a whole lot of applications made; a total of, depending upon whose data you look at, 61, 70. I'm confident that there have been a whole lot of paramedics, firefighters, police officers and others up to their elbows in blood in any number of circumstances. Clearly, the application process, in my view, hasn't been abused. People have been very discreet about making these applications. That's number one.

Number two, I agree with you about the time frames. Either you've contracted the disease or you haven't. Short of voluntary and sort of the perfect storm situation, the practicality of getting the blood tested within the first half-hour or so is very, very minimal. Primarily, this is about providing, in my view, a level of psychological and emotional comfort for the victim of the bleeding, especially when, as you point out, early HIV testing of the victim, even though they have been infected, may not reveal HIV. Knowing that the bleeder doesn't have HIV is going to put that person a lot more at ease.

But the other interesting thing—take a look at clause 5(2)(a). CCB makes an order. It can, in clause (b), require the respondent to allow a physician named—in other words, it can make a direct order, but in clause (a) it makes an order “requiring the medical officer of health...”

The Chair: You may want to wrap up your question if you want to get a fulsome answer.

Mr. Kormos: Yes. Question: Why would we want to put the medical officer of health in a position where he, for instance, might advertently or inadvertently violate an order? Don't they do enough? When you've got clause (b) that allows the CCB to directly require the respondent to give blood—is that the point you were making?

Dr. Shahin: Yes, that is the point. I feel that the medical officer of health should not be involved in that order process.

Mr. Kormos: Because he or she is removed from the process; they've done their job initially and you've moved on to the CCB. You let the CCB make its orders. That's what you're saying, huh?

Dr. Shahin: That's right.

Mr. Kormos: It makes good sense to me.

The Chair: Thank you. Dr. Qaadri.

Mr. Shafiq Qaadri (Etobicoke North): Dr. Shahin, I, of course, appreciate the different risk levels depending upon the exposure type. I'm sure you're aware that it was as a result of a couple of surgeons at the University of Toronto contracting hepatitis B that hepatitis B prophylaxis became general throughout Ontario. So I was surprised to hear that a physician would not support mandatory testing.

The other thing that seemed biologically counter-intuitive was this idea that the bleeder, a potentially HIV positive patient but not HIV positive yet, would be more infectious in the initial stages. Why would that be?

Dr. Shahin: In the early stages of the infection of HIV—in the first couple of weeks—people have a very high viral load in their blood and therefore are much more infectious to others. At that point in time, they wouldn't have antibodies showing that they're HIV-infected.

Mr. Qaadri: All right. To Ms. Mossop.

Ms. Mossop: Just to clarify, you mentioned that there is a test that you can get the results of in 10 or 15 minutes, but it is not available to health care providers. Yet if we shift over to a health care provider doing the order, then we may have to address that issue as well.

Dr. Shahin: It's a test that's currently licensed in Canada. However, it is not available through the current laboratory system at no charge. I think physicians could access it but would have to pay for it, or the clients would have to pay for it themselves.

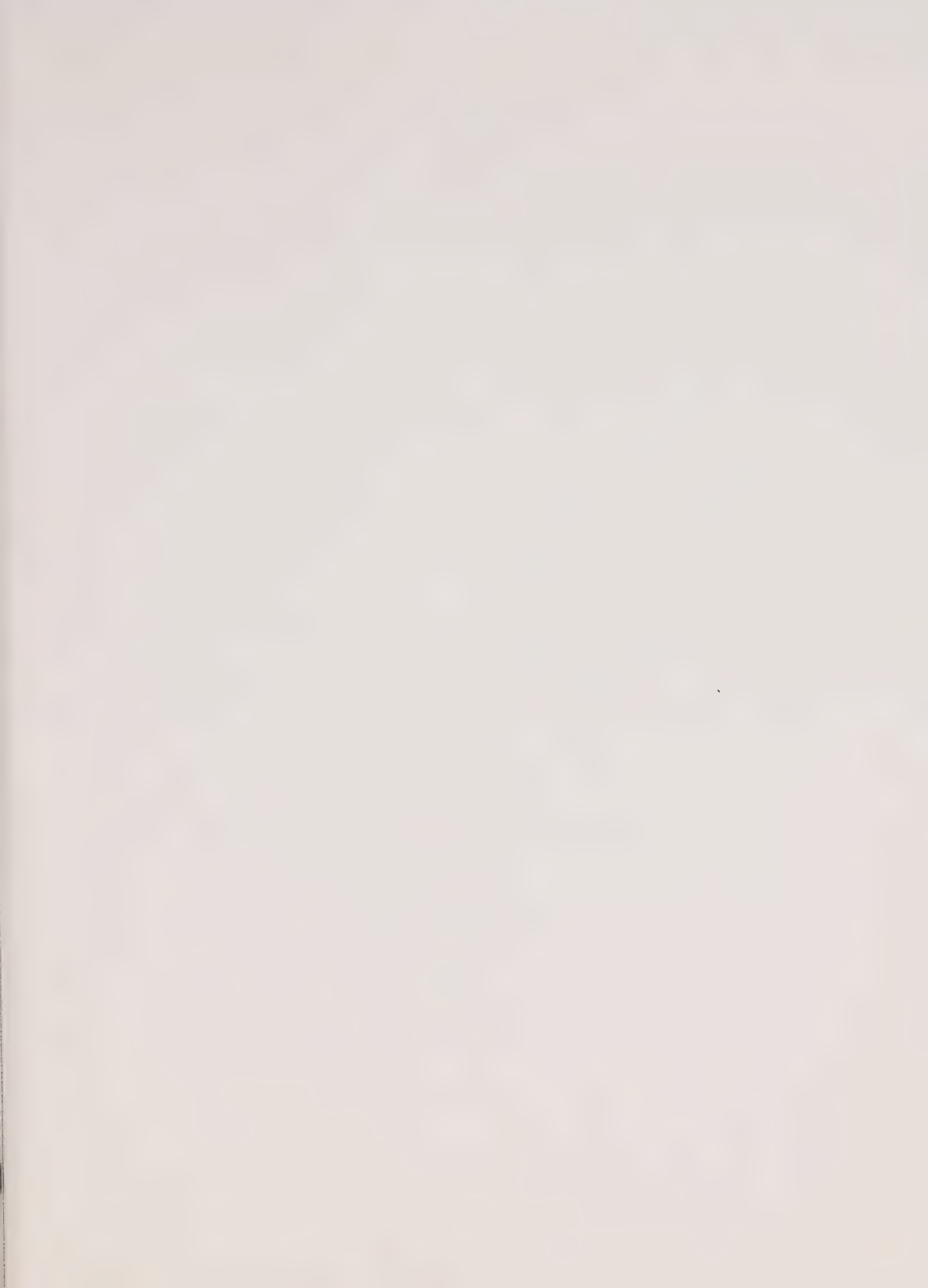
Ms. Mossop: So we'd have to make sure, if there's any change, that that's addressed as well.

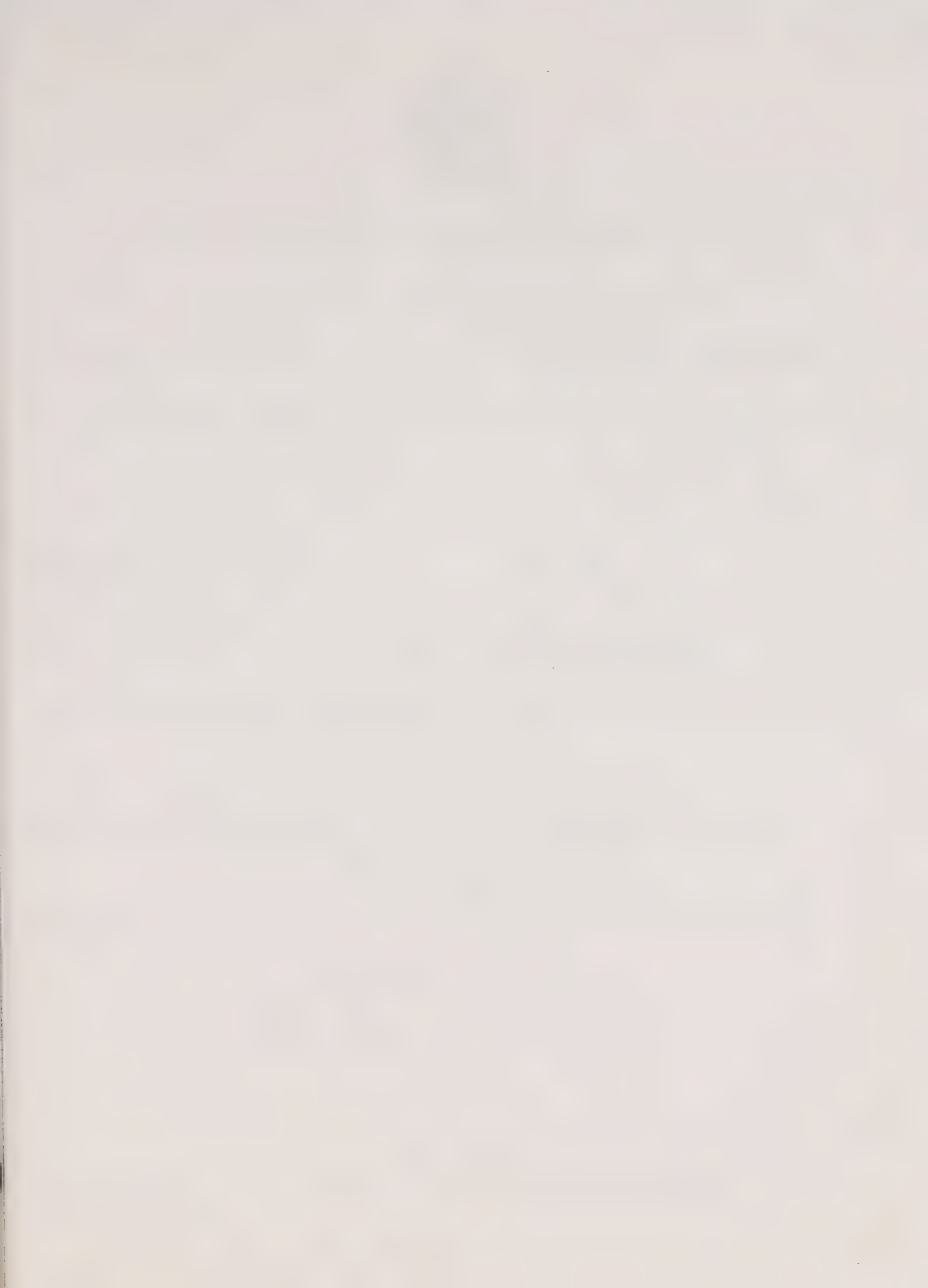
The Chair: Mr. Balkissoon.

Mr. Balkissoon: I just want to say, thank you very much for taking the time to come out and share your thoughts with us. Definitely we will follow up on your last comment.

The Chair: Thank you very much. Thank you to all the deputants for having made the time to come in today and enlighten the committee. This meeting is adjourned.

The committee adjourned at 1658.





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Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 30 November 2006

Journal des débats (Hansard)

Jeudi 30 novembre 2006

Standing committee on the Legislative Assembly

Mandatory Blood
Testing Act, 2006

Comité permanent de l'Assemblée législative

Loi de 2006 sur le dépistage
obligatoire par test sanguin

Chair: Bob Delaney
Clerk: Tonia Grannum

Président : Bob Delaney
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 30 November 2006

Jeudi 30 novembre 2006

*The committee met at 1548 in committee room 1.*MANDATORY BLOOD
TESTING ACT, 2006LOI DE 2006 SUR LE DÉPISTAGE
OBLIGATOIRE PAR TEST SANGUIN

Consideration of Bill 28, An Act to require the taking and analysing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996 and the Health Protection and Promotion Act / Projet de loi 28, Loi exigeant le prélèvement et l'analyse d'échantillons de sang afin de protéger les victimes d'actes criminels, le personnel des services d'urgence, les bons samaritains et d'autres personnes et apportant des modifications corrélatives à la Loi de 1996 sur le consentement aux soins de santé et à la Loi sur la protection et la promotion de la santé.

The Chair (Mr. Bob Delaney): Good afternoon, everybody. We are hoping to deal with our committee expeditiously this afternoon. We're here for clause-by-clause consideration of Bill 28, An Act to require the taking and analysing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996 and the Health Protection and Promotion Act. Jennifer is not the only one who can read fast.

Are there any comments, questions or amendments to any section of the bill, and if so, to what section?

Mr. Peter Kormos (Niagara Centre): I don't think this is going to be a lengthy process this afternoon. Quite frankly, I'm particularly appreciative of amendment 2. I would only ask, as we go through the amendments—I think I understand the bill; we had considerable hearings on that last time around—that the parliamentary assistant explain the motive behind the amendments, just so everybody understands.

The Chair: I assume the parliamentary assistant is okay with that?

Mr. Bas Balkissoon (Scarborough—Rouge River): Okay with that, Mr. Chair.

The Chair: May I have consent to do block consideration of sections 1 to 3, there being no amendments proposed? Agreed.

Shall sections 1 to 3 carry? Carried.

Amendments to section 4?

Mr. Balkissoon: I move that subsection 4(3) of the bill be struck out and the following substituted:

“Timing of hearing

“(3) Subject to subsection (4) and despite subsection 75(2) of the Health Care Consent Act, 1996, the board shall commence and conclude the hearing within seven days after it receives the referral of the application.

“Extension

“(4) The board may commence or conclude the hearing within a longer period than the seven days required by subsection (3) if all the parties to the hearing consent to the extension.”

Just a simple explanation: The government is quite pleased that if all parties agree and the CCB wishes to extend the hearing, so be it.

The Chair: Any comments?

Mr. Kormos: The amendment is clear; it speaks for itself. I think the question is, why? If you're beyond seven days and you're at the appeal level, so to speak, at this point it becomes pretty moot, doesn't it, in terms of the prophylactic exercise that a victim might want to entertain? You're talking at least seven days, eight days, nine days after the person has come into contact with it.

Mr. Balkissoon: If I could clarify, the whole exercise of PEP would already have been started. The idea of this bill is to have the applicant put at ease that the person they came in contact with is not infected with any of the diseases that will be spelled out. The whole idea here is that the person responding to the blood sample may be able to provide other evidence that they're free and clear of these diseases, and if all parties can agree that they can supply this information, then—

Mr. Kormos: Okay. I'm not going to oppose the amendment.

Mr. Balkissoon: That's why we're putting it in the bill. It's to allow the opportunity, because I think the board wished to have it.

Mr. Kormos: I'll speak to time frames when we get there.

The Chair: Further discussion on the amendment? Shall the amendment carry? Carried.

Shall section 4, as amended, carry? Carried.
Section 5.

Mr. Balkissoon: I move that clause 5(2)(a) of the bill be struck out.

The Chair: Discussion?

Mr. Balkissoon: Currently the Consent and Capacity Board does make orders, and in the draft bill it was suggested that the CCB order the MOH. In reconsidering the draft bill, it was not necessary for the CCB to order the MOH, but the CCB can issue its own order. I believe one of the stakeholders who was here requested that, and the government has agreed.

Mr. Kormos: I listened carefully to the presenter the last time we were here, and I spoke with her afterwards and spoke with Mr. Balkissoon about it. I quite frankly want to commend him for having taken this issue back to the ministry, clearly in a somewhat zealous manner. It doesn't make sense to put the MOH back in the loop once it has gone beyond the medical officer of health to the point of appeal with the consent board. I support the amendment.

The Chair: Further discussion? Shall the amendment carry? Carried.

Further amendments?

Mr. Balkissoon: I move that subsection 5(4) of the bill be struck out and the following substituted:

"Notice of decision, order

"(4) The board shall, within the time provided in subsection (3), provide each party or the party's counsel or agent and the medical officer of health who referred the application to the board with a copy of the board's decision and of any order made by the board."

This is just a technical amendment, and I think it is as it reads.

The Chair: Mr. Kormos.

Mr. Kormos: I appreciate the technical amendment. Quite frankly, it's perhaps a little better language, in terms of grammar. Does it detract in any way from clause (b)? That's basically what you're altering, isn't it?

Mr. Balkissoon: Sorry, I can't hear you.

Mr. Kormos: You're altering clause (b).

Mr. Balkissoon: Right. I don't believe so.

Mr. Kormos: You're abbreviating it. Can we get some help by way of explanation? Are there folks here from the ministry who can speak to that?

The Chair: Would you please begin by introducing yourself for Hansard.

Ms. Natalie Osadchy: Natalie Osadchy. I'm counsel for the Ministry of Community Safety and Correctional Services. Mr. Kormos, as Mr. Balkissoon explained, it is simply a technical amendment. It collapses clause (5)(a) and clause (5)(b). It just places it in the one paragraph and makes the language consistent. It doesn't change what it's doing.

Mr. Kormos: Okay. Thanks.

The Chair: Further discussion? Shall the amendment carry? Carried.

Shall section 5, as amended, carry? Carried.

May I request unanimous consent to consider sections 6 and 7, there being no amendments proposed, as a block? Agreed.

Shall sections 6 and 7 carry? Carried.

Shall section 8 carry?

Mr. Kormos: One moment. Let's have some debate around section 8.

The Chair: Discussion and comments around section 8?

Mr. Kormos: Yes. I want to hear why the government wants to delete section 8 from the bill. I've got some things to say about this one.

Mr. Balkissoon: Section 8 was one section in the draft bill suggesting that the decisions of the CCB are final and cannot be used in any proceedings in the future. The stakeholders requested that they be given the opportunity to use the evidence from any blood sample taken in future proceedings, if necessary. The government has accepted that in striking out section 8—and we'll be voting against it—that allows that process to be dealt with in court and the court will make a decision as to what evidence is admissible or not.

Mr. Kormos: To the parliamentary assistant, you were doing so good so far. Look, the whole goal here is to have voluntary compliance, right? That's how you're going to get speedy production of blood samples. I appreciate that some of the parties are going to be people who are charged with criminal offences, because some of the parties who are entitled to seek a blood sample are victims of crimes. That's going to include police officers. Section 8, as you have it in here—and let's read it so everybody understands it: "The results of an analysis done pursuant to a request made by a medical officer of health under section 3"—that's where it's voluntary, huh?—"or an order of the board under section 5"—that's where it's ordered by the board after, effectively, an appeal of the MOH—"are not admissible in evidence in a criminal proceeding." That seems to me to make eminently good sense if you're encouraging voluntary compliance. It assures the criminal, however unfair it seems, that what we're doing here is a medical procedure.

You and I have had discussions. This leads me to the role of JPs, because you know I advocated the role of JPs. I don't want to be unfair—correct me if I am misstating anything—but the sense that the government had was that the JPs tend to be more criminal-offence-oriented, and the focus of this bill is to be health-oriented. By repealing section 8, you are effectively stating that those blood samples or the results of an analysis can be subpoenaed in a criminal prosecution. That's what it says. Section 8, as it exists, would prohibit the analysis from being subpoenaed in a criminal prosecution.

You say it's up to the courts. No, it's not up to the courts. Courts don't decide what you can or can't subpoena. The law decides that. You get a subpoena simply by appearing before a JP and the JP signs the subpoena. If you have reasonable and probable grounds to believe that Mario Sergio is in possession of an analysis of the blood of so-and-so and if that evidence is relevant, boom, a JP signs the subpoena and the police go get it. This is not helpful when it comes to voluntary compliance. And then you run the delay factor. That's not fair to the victim of the blood-splattering, if I can put it that way.

I'm sorry, and I've got to tell you that this is the first time I've seen this government recommendation, but you've made it very difficult for me to support the bill. Okay, I'm a lawyer talking now, but it is an offensive sort of thing. Would it be oh so nice? I agree, but Lord Jesus, the purpose here is to deal with public health matters, not with criminal matters, notwithstanding that there are going to be criminal matters.

Now, can the police subpoena, for instance, blood samples obtained during medical procedures if somebody is getting a blood test and so on? From time to time, yes, subpoenas are—well, when they're requested they're granted. There isn't immunity. This bill and the reason we're amending it is to encourage, to give effect to speedier results.

The Chair: Mr. Balkissoon? Oh, I'm sorry; Mr. Hardeman had a comment. I beg your pardon.

Mr. Ernie Hardeman (Oxford): I think, on the same topic, I agree with my colleague from the New Democrats, and I'm most taken by the fact that the parliamentary assistant says that the intent of voting against this section and having it removed is to let the courts decide. Not having been a party to all the hearings and so forth, maybe I'm not as well equipped to deal with this as the rest of the members of the committee, but as I read this section, the only reason it's there is to avoid what the parliamentary assistant says is the intent of voting against it: to let the courts decide. This section says the courts don't get to decide, that that is not relevant evidence. If you take it out, and if there is no legislation anywhere to protect it from being used in a court of law, it will always be applicable evidence if somebody asks for it.

If that's the government's intent—I suppose one could debate whether it should or shouldn't be—but to say that it means nothing, that we're taking it out so we'll let the courts decide as opposed to us deciding in the legislation, up until now the decision was made that it was this legislation that was going to decide whether that would be relevant in any criminal proceeding. By taking it out, it no longer will be. I have some concerns that we are changing the total intent of that protection that's there to make people receptive to volunteering the information in any activity, prior to it becoming a criminal activity. A lot of people would say, "Oh no, forget it. Don't take any tests from me because the next thing you know I'll be in court for something else totally apart from this."

The Chair: Mr. Balkissoon, and after that Mr. Kormos.

Mr. Balkissoon: There are some legal issues regarding section 8 also and I would like the ministry staff to just respond to the concerns of the other two members.

The Chair: Would the ministry staff then come forward?

Ms. Osadchy: If I might have a moment to confer with my colleague?

Mr. Kormos: Chair, why don't we have a recess?

The Chair: Let's have a five-minute recess.

The committee recessed from 1604 to 1612.

The Chair: Thank you for coming back promptly, within five minutes.

May I have unanimous consent to stand down consideration of section 8 for the moment? Okay.

Section 9: Mr. Balkissoon.

Mr. Balkissoon: I move that section 9 of the bill be amended by adding the following subsection:

"Protection from liability for complying with order to take or analyze sample, etc.

"(3.1) No action or other proceeding for damages or otherwise shall be instituted against a person for any act done in good faith in compliance with an order under clause 5(2)(c) or (d)."

The Chair: Discussion?

Shall the amendment carry? Carried.

Further amendments?

Mr. Balkissoon: I move that subsection 9(5) of the bill be amended by striking out "Nothing in this Act" at the beginning and substituting "Nothing in this Act and nothing done under this Act".

This is pretty well a technical amendment.

The Chair: Any comments?

Mr. Kormos: I don't think it's as technical as you say. This whole paragraph denies the creation of a physician-patient relationship. What that means is that you don't have the same duties or obligations between the person who is pulling the blood, for instance, and that's significant as well in terms of confidentiality. If you don't have a doctor-patient relationship, the person who is having the blood drawn from him or her can't call upon the drawer of blood with a syringe to maintain confidentiality.

So this is significant. I support it. I suggest that the bill doesn't want to do that. That's why my interest in section 8. Do you understand how this is very much tied to section 8? We're saying in the bill that there's no doctor-patient relationship, so the patient can't argue privilege. The patient can't say, "You're my doctor. You're barred from testifying for a civil plaintiff," or somebody else, "because I have a doctor-patient relationship with you." We're telling the person from whom blood is being drawn that that's not going to exist. That's why I say section 8 and its existence becomes more critical.

The Chair: Shall the amendment carry? Carried.

Shall section 9, as amended, carry? Carried.

Shall section 10 carry? Carried.

Section 11: Mr. Balkissoon.

Mr. Balkissoon: I move that subsection 11(1) of the bill be amended by adding the following clause:

"(m) prescribing the maximum time period within which a respondent must comply with an order made under section 5 and that may be specified by the board in such an order."

The Chair: Discussion?

Shall the amendment carry? Carried.

Mr. Balkissoon: Mr. Chair, could we just take a small recess again to allow the staff to come back?

The Chair: Before we do that, shall section 11, as amended, carry? Carried.

Mr. Kormos: If you wish, Mr. Chair, we can go all the way on to 17.

The Chair: Mr. Balkissoon, do you have any objection to block consideration of sections 12 through 17?

Mr. Balkissoon: Not at all.

The Chair: There being no amendments proposed to sections 12 through 17, shall sections 12 through 17 carry? Carried.

May we have a brief recess?

Mr. Kormos: Yes, we may.

The Chair: Then we shall.

The committee recessed from 1617 to 1625.

The Chair: Okay. We are once again in session.

We are going to consider section 8 of the bill, all other sections having received consideration.

Shall section 8 carry? Carried.

Shall the title of the bill carry?

Interjections.

The Chair: Shall we debate the title of the bill until midnight?

Shall Bill 28, as amended, carry? Carried.

Shall I report the bill—

Mr. Kormos: Debate?

The Chair: On whether I shall report the bill or whether it shall carry?

Mr. Kormos: On whether you'll report the bill.

The Chair: Okay. Shall I report the bill, as amended, to the House? Mr. Kormos.

Mr. Kormos: Thank you kindly.

Clearly, when we addressed this matter, first round, with the Garfield Dunlop bill and everybody made their best effort, it wasn't quite right in terms of achieving the goals we wanted to achieve. I was pleased to get—and I thank very much Lorraine Luski and Margaret Drent, among others, who have been helpful in providing material to us. I'm interested in the data that were provided the last time the committee met. I'm looking forward to seeing what new data there are as a result of these amendments in an effort to accelerate it, and indicate that it's one of those things we have to be prepared to revisit if it's not as effective as it should be.

For instance, should particular sections be found to be outside the power of the province and effectively struck from the bill, at least in terms of any impact, it seems to me that we have to sit down and address that. But I think

the bill fairly illustrates our intent—and it was a tripartite process; all three parties agreed—to ensure that the identified people—front-line emergency workers, good Samaritans and others who run the risk of being infected—have access to blood testing analysis of the person who bled on them in the shortest possible order so that they can take measures to protect their own health and, as has been pointed out by so many, simply for the emotional security or satisfaction that the person whose blood might have infected you is not, in and of himself, disease-carrying.

It's amazing, because, while there was some apprehension—and everybody in the room will recall that about the bill in the first instance—by certain communities and people in those communities, there has been no suggestion during the currency of the existing legislation that the legislation has been abused. If anything, it indicates that most of the compliance is voluntary by people who are bleeding, and similarly, the data illustrate that there has been a very conservative utilization of the bill by people who have been bled on. When we look at numbers of 70 or 71 over a year and a half or more, we all know there are a whole lot of paramedics, correctional officers, police officers and firefighters who have been bled on than merely that number. So clearly, those front-line emergency personnel, and good Samaritans, have used common sense and restraint in utilizing the bill.

I'm pleased to have participated, and I look forward, should the need arise, to addressing the bill again. The government doesn't have to feel any shame in that whatsoever.

The Chair: Further discussion?

Mr. Tim Peterson (Mississauga South): Mr. Chair, I think it's just as well that we should make him a government member for the rest of the proceedings.

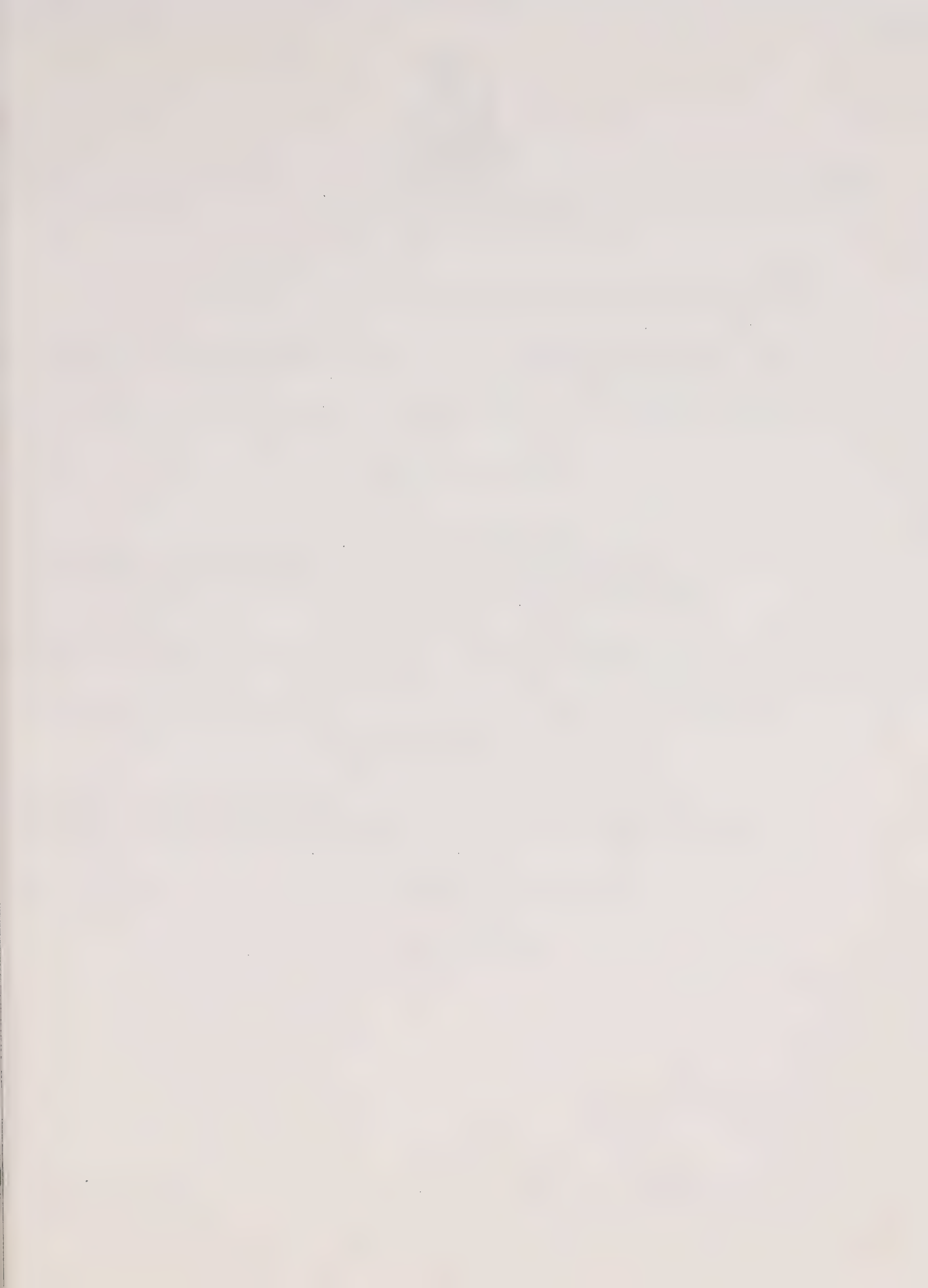
Mr. Kormos: Whoa, that's out of order.

The Chair: Mr. Peterson, unfortunately that is indeed out of order.

Shall I report the bill, as amended, to the House? Agreed.

Thank you very much, everybody. We're adjourned.

The committee adjourned at 1630.



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Also taking part / Autres participants et participantes

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Ministry of Community Safety and Correctional Services

Clerk / Greffière

Ms. Tonia Grannum

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Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

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Thursday 7 December 2006

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Jeudi 7 décembre 2006

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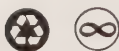
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 7 December 2006

Jeudi 7 décembre 2006

The committee met at 1528 in committee room 1.

ELECTION OF CHAIR

The Vice-Chair (Mr. Mario G. Racco): Good afternoon. Thank you for coming. Honourable members, it is my duty to call upon you to elect a Chair. Is there any nomination on the left? Do I have a nomination?

Mr. Ernie Hardeman (Oxford): I think the party on the right was going to nominate someone from the party on the left.

The Vice-Chair: Let's find out. On my right side, which is the government side, do I have a nomination?

Ms. Jennifer F. Mossop (Stoney Creek): I would like to nominate my colleague Mr. McMeekin as Chair.

The Vice-Chair: On the right side.

Ms. Mossop: Yes.

The Vice-Chair: Do I have any other nominations for Chair?

Mr. Rosario Marchese (Trinity-Spadina): No.

The Vice-Chair: Mr. Marchese said no. I think we can take that.

Any other nomination for Chair, for the second time? For the last time, is there any other nomination?

Seeing none, I will declare Ted McMeekin the new Chair.

At this time, Mr. Chair, would you please come and take this very honourable chair so that you can continue the meeting. Thank you.

The Chair (Mr. Ted McMeekin): I have big shoes to fill here. Thanks to my nominator and all who supported me.

APPOINTMENT OF SUBCOMMITTEE

The Chair: The next item, members of the committee, is the appointment of a very important subcommittee on committee business. As we all know, that's really where a lot of the important procedural things—

Mr. Marchese: I volunteer.

The Chair: Is there a motion?

Mrs. Linda Jeffrey (Brampton Centre): I have a subcommittee motion.

The Chair: Mrs. Jeffrey has a motion.

Mrs. Jeffrey: Thank you, Mr. Chair, and congratulations; a wise choice.

I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as chair; Ms. Mossop; Mr. Hardeman; and Mr. Marchese; and

That the presence of all members of the subcommittee is necessary to constitute a meeting.

The Chair: Very good. We've had a motion duly moved. All those in favour? Carried.

Any other business? There being none, we are adjourned.

The committee adjourned at 1531.

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Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Monday 5 February 2007

Journal des débats (Hansard)

Lundi 5 février 2007

Standing committee on the Legislative Assembly

Electoral System
Referendum Act, 2007

Comité permanent de l'Assemblée législative

Loi de 2007 sur le référendum
relatif au système électoral

Chair: Ted McMeekin
Clerk: Tonia Grannum

Président : Ted McMeekin
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Monday 5 February 2007

Lundi 5 février 2007

*The committee met at 0932 in room 151.*ELECTORAL SYSTEM
REFERENDUM ACT, 2007LOI DE 2007 SUR LE RÉFÉRENDUM
RELATIF AU SYSTÈME ÉLECTORAL

Consideration of Bill 155, An Act to provide for a referendum on Ontario's electoral system / Projet de loi 155, Loi prévoyant un référendum sur le système électoral de l'Ontario.

The Chair (Mr. Ted McMeekin): Ladies and gentlemen, welcome. It's great to have you here for public hearings on this very important piece of legislation. We appreciate ever so much the enthusiasm that's being expressed right across the province and obviously today, with the significant number of presenters who have indicated a desire to speak, so that's great.

SUBCOMMITTEE REPORT

The Chair: The clerk instructs me that we first need to deal with the report of the subcommittee. I believe Ms. Mossop will read that into the record for us.

Ms. Jennifer F. Mossop (Stoney Creek): I shall. Thank you, Chair.

Your subcommittee met on Monday, January 15, 2007, to consider the method of proceeding on Bill 155, An Act to provide for a referendum on Ontario's electoral system, and recommends the following:

(1) That the committee meet for public hearings on February 5, 6 and 7, 2007, at Queen's Park as per the whips' agreement.

(2) That the committee meet from 9:30 a.m. to 4:30 p.m. (subject to change).

(3) That the clerk of the committee place an ad for one day in the Toronto Star and L'Express.

(4) That the clerk of the committee post information regarding public hearings on Bill 155 on the Ontario parliamentary channel and the committee's website.

(5) That the ministry provide the committee with technical briefing binders on Bill 155 prior to the start of public hearings.

(6) That interested parties who wish to be considered to make an oral presentation on Bill 155 contact the clerk of the committee by 5 p.m. on Friday, January 26, 2007.

(7) That if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 5:30 p.m. on Friday, January 26, 2007, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled, by 12 p.m. on Monday, January 29, 2007.

(8) That the deadline for written submissions on Bill 155 be 5 p.m. on Wednesday, February 7, 2007.

(9) That all witnesses be offered a maximum of 15 minutes for their presentation.

(10) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 12 p.m. on Friday, February 9, 2007.

(11) That the committee meet on Tuesday, February 13, 2007, for clause-by-clause consideration of Bill 155 as per the whips' agreement.

(12) That the research officer provide the committee with background information referendum in Ontario and BC prior to the start of public hearings; also, that the research officer provide the committee with a summary of public hearings by Thursday, February 8, 2007.

(13) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Okay. All in favour of the report? Carried and so ordered.

FAIR VOTE ONTARIO

The Chair: We have the first of our presenters up this morning. I'd like to welcome, from Fair Vote Ontario, Joe Murray, who I understand is the chair. Mr. Murray, you have 15 minutes to make your presentation. If there's any time remaining, it will be equally divided amongst the three parties here, unless it's a very small amount, in which case we'll go one party sequentially. Go ahead.

Mr. Joe Murray: Thanks. We're going to try to keep our presentation very short so that there is ample time for discussion afterwards.

I'm very pleased to have with me here today Dr. Patrick Boyer. Dr. Boyer is a former parliamentarian who has published three books on referenda and he will be speaking to the question of the threshold. That's a major concern of ours. Patrick is on the national advisory board of Fair Vote Canada and has agreed to help us out here today in Ontario.

I'm going to deal with some other matters very quickly. I'll have to refer you, given the time limitations, to the document which you should have in front of you at this point.

Our big concern is the adequate education campaign that we hope to see here in Ontario so that there is an informed discussion and an informed vote on the referendum. I realize there's no clause in the act before you, but we do feel that it's essential that the government provide adequate funding to sustain a public education campaign.

In British Columbia the select committee found that there was inadequate money paid for a public campaign and, as a result, about half the voters had no idea as they headed into the polling stations that there was a referendum. About two thirds had no idea about the proposal they were voting on, and that's simply inadequate.

The amount of money that was spent in BC would be equivalent to a bit under \$4 million here in Ontario, given our difference in population size. We think that you need to do at least what New Zealand did in their second referendum. They were already way more informed than our Ontario population will be. They spent about the equivalent of 13 million in 2007 Canadian dollars. That is our very strong recommendation to the committee and we hope that that makes its way into your report.

There are some other things I'd like to mention in our written submission to you. The first is the drafting of the referendum question. We think it should follow the practice that was set in British Columbia, where it was the citizens' assembly rather than the government that set the wording of that. They're going to be quite knowledgeable about their proposal and we think that it's most important that the integrity and perceived integrity and even-handedness of the process be maintained and that having a single party that some might perceive as having a vested interest in a certain result in any proposal either passing or failing be avoided. As a result, we'd strongly encourage the committee to suggest that the wording not be set by regulations by the minister and government but that it be the work of the citizens' assembly. Failing that, perhaps some sort of other all-party mechanism, but basically we really think that you should follow the BC model.

A couple of other things I just want to mention: access to the list of electors. If you want to have a good back-and-forth in debate, it makes sense that we should see the referendum campaign talking to voters. Right now, there's no provision for the referendum campaigns to get the list of voters. We don't think there's any reasonable concern around privacy if the Elections Ontario folks can use the list of electors that has been provided by, for example, Revenue Canada, when people tick off on their tax returns that they're allowing their information to be released. If you're going to have that for both elections and referenda, that they can do that, then those lists can be provided to the campaigns. Either it's good enough for Elections Ontario and the campaigns or it's not good enough for either.

Finally, I'd just like to suggest that scrutineers should be cross-appointed; otherwise, we won't see any adequate scrutineering of the count. We have quite a bit of detail in our written submission on that. I'd like to now turn it over to Patrick Boyer for our major concern, which is the referendum threshold.

0940

Dr. Patrick Boyer: Thank you. Chair and honourable members, I sincerely urge you to recommend deletion of section 4 from this bill and then to fight for that recommendation. Section 4 says that a vote on this question has to be approved by 60% of the voters in 60% of the ridings. Where has this principle come from? It has not come from members of this Legislature, because the select committee of this Legislature studied this question and made its recommendation that a proposed change in the electoral system of the province should be voted up or voted down by the electorate with 50% plus one.

Citizens of this province have previously voted in ballot questions to prohibit the sale of alcohol and then to repeal the sale of alcohol, 50% plus one. Citizens of this province, along with those from other provinces, have voted on ballot questions on the issue of conscription, which was about forcing people to put on the uniform of this country and to go into battle with their lives at risk, 50% plus one. Citizens of this province, together with those of other provinces, voted on wholesale amendments to the Constitution of Canada, in the Charlottetown accord, 50% plus one. This bill, hopefully with section 4 deleted, will be approved in the Legislature by you on a vote of 50% plus one. When you're voting, you might look around at your fellow members and ask, "How many of us are here with 50% or more of the votes in our riding?" Many members don't even receive a majority because of our multi-party system. I do not see any measure, Chairman McMeekin, that's saying that members to be elected to the Legislature need 60% of the votes in the riding and in 60% of the polls.

This proposal, if you allow it to go through, is going to create such a firestorm at the ground level with citizens in this province that you will not want to reap that whirlwind—I assure you of that—and not only with the kind of cynicism that we all, who have held or now hold public office, lament, but because—to see a government that has made advances for democratic renewal. The fixed date for elections: a small reform that brings huge benefits, and that is a great accomplishment. This current effort to upgrade the electoral system in our province—a province that, since 1919, when a coalition government was elected of farmers and labour, has been a multi-party system and yet for 80 years has not adjusted the electoral system to see that the proportionate share of votes of the people is reflected and who gets to sit in the Legislature itself.

When I talk about the cynicism that will arise from this bill in its present form with section 4 in it, going forward, that is because there's a genuine risk here of this being seen as a most elegant ruse, holding out the promise of electoral reform and instituting a whole pro-

cedure with the constituent assembly to set in motion recommendations grounded outside the political system but by people who care about it, and then setting a threshold this high that risks the promise never being achieved in reality.

So when the committee of the Legislature that studied this and recommended 50% plus one came to that view, I ask you, members, what happened? Who is in charge in the Legislature of Ontario? Is it the elected representatives of the citizen, or is it people behind the ministry who craft legislation based on I don't know what, but it's certainly not any understanding of democracy in Canada. But 50% plus one—50% plus one—that's the rule. It's implicit in everything we do. The Referendum Act of Canada doesn't even state anything about a threshold. Why? Because it's understood that for questions put to the people on a ballot question, a simple majority will suffice.

I've made my point. I urge you to do the thing that is consistent with what you have already recommended through the select committee. Now this is legislation that has been brought back for study, and you must ask yourselves, who's in charge? What kind of elected representative of the people am I, to sit in the chamber and see legislation brought in that contradicts an express recommendation of a legislative committee of all parties that examined this, that had witnesses come and sit before it in this room, sincerely trying to craft legislation through the interaction and dialogue of a democratic society? Ask yourself that, and have the courage to recommend deletion of section 4 and to fight for that recommendation. I assure you that there will be others on your side in that battle, not least of whom are grassroots citizens across this province, but also those who reluctantly would take recourse to the courts in a constitutional challenge against section 4 as being incompatible with the Charter of Rights and Freedoms that talks about and guarantees the democratic rights of citizens of this province, subject only to such reasonable limitations as can be demonstrably justified in a free and democratic society. Section 4 of this bill—Chair, honourable members—assuredly is not a restriction that can be justifiably demonstrated to be worthy of a democratic society like Ontario.

The Chair: Thank you. We have about three minutes, so a minute for each party. Go ahead.

Mr. Norm Miller (Parry Sound-Muskoka): Thank you very much for your presentation this morning. Patrick Boyer, of course, is a former federal Conservative member, but his father was also the member for Muskoka, from—

Dr. Boyer: For 17 years.

Mr. Miller: For 17 years, up to 1971. So, certainly some strong connections to the riding I now represent.

That was a very impassioned presentation for a 50%-plus-one threshold. I can't say as I remember your father ever getting quite that impassioned about things, but I'm sure he did. But my question is this—you used the words “elegant ruse” for the process we're going through. Why

do you think the government has chosen a 60% threshold for the referendum?

Dr. Boyer: I think the government has been unduly influenced by what has been done elsewhere. Being a lawyer myself, Mr. Miller, I know about following precedent. So the example of what happened in British Columbia and then was picked up by Premier Binns in his government in Prince Edward Island has now come for its third visitation here in the province of Ontario. The fact that Gordon Campbell, who gave leadership on this issue in British Columbia, had subsequently to deal with problems in his caucus that gave rise to this compromise, basically saying: “All right, we'll hold it out there, but we'll make it so impossible to get that nothing will really change”—that those internal, crazy problems in the caucus of one party in British Columbia should now become public policy in Ontario is a scandal that I think speaks not to the political smarts of any elected representative in this province, but to the people who are spending too much time studying what's going on elsewhere and not looking at the real precedent, which is our own political history in this province on many prior ballot questions held with 50% plus one in Ontario.

0950

The Chair: Okay. Deferring to the presenter, I went a little bit over. You have about a minute, Michael.

Mr. Michael Prue (Beaches-East York): Okay. Thank you.

I support 50% plus one. In fact, it was my motion in the committee, which every Liberal and every Conservative and every member of the committee supported. I think what has happened here, though, is what happened in BC, and I'd like you to comment on that. In BC, when the select committee went there, one of the learned people told us that it was widely known that the government set the rate so that it would fail, and indeed it did.

The Chair: Dr. Boyer, you have about 50 seconds.

Dr. Boyer: If we're going to learn from British Columbia's history, let's really learn from British Columbia's history, because what's happening in BC? They're going back to the polls for a second time on the same issue in another referendum on the electoral system. The political impetus in this country to upgrade the electoral system is so strong that it can't be denied, and even in British Columbia they are going to have to go back. So in Ontario, why send the voters twice to the polls? Why not get it right the first time?

The Chair: Thank you very much for your very good presentation here.

Mrs. Linda Jeffrey (Brampton Centre): Mr. Chair, may I get a minute?

The Chair: No, sorry. My apologies. In deference to the presenter, he obviously wanted to take longer to answer the first question, so that's fine.

GUY BABINEAU

The Chair: We'll invite Mr. Guy Babineau to make his presentation. Welcome back, Mr. Babineau. It's good

to see you again, sir. You know the procedure fairly well. You have 15 minutes, and if there's any time left over, we'll begin with the government side. Go ahead, sir.

Mr. Guy Babineau: My name is Guy Babineau. It's a pleasure to be here again. Thanks for the opportunity, Chairman and members.

My concern with the bill is not so much the fact that—there might be a good idea behind it, but it's the procedures that the government has taken. It tends to try to commit another Parliament to act on a proposal that has been voted on, and to me it lies at the root of, no Parliament can commit a subsequent Parliament to enact legislation.

The other thing that I'm concerned with is, the fact that the Lieutenant Governor would attend to this bill would commit him to attend to the other one. To me, it would be an infringement on his discretion. How could he, especially if it was the same Lieutenant Governor, say you have the right to go to the vote, you have the right to do that, and then the second act comes, to implement it, and say, "I can't implement it because it had bound another government"? I think those are valid things that should be taken into account.

I have some problem as well with referenda that commit the government to act. We elect a government to have the backbone to take action. I don't think the government should go to the public and ask, "What do you think we should do?" We elect you to use your best judgment to represent us.

I think as well that, if my conclusions are correct, based on the Operation Dismantle case, where we can question the wisdom of Parliament, it would be sad, if a case went through and was successful, to say you abdicated your responsibilities. I think that I made some strong submissions in my written representation. I had the pleasure to speak with one of the presenters—not to speak, but to e-mail with one of the presenters—around the question of the preamble to the Constitution and changing the way the election would be done. I'm on very shaky ground on this one and I don't think it would be wise at this time to put that argument forward.

I will leave myself open to any of your questions.

The Chair: Okay. Thank you. We have about 10 minutes, so three or three and a half each, beginning with the government side.

Mrs. Jeffrey: Thank you for coming today. You've clearly done a lot of work on your presentation, so I want to thank you for doing that and being here today. It's very helpful.

Mr. Babineau, do you have any affiliation with any of the groups that are here today, like Fair Vote? Are you part of that organization, or are you here independently?

Mr. Babineau: Could you speak a little bit louder, because I'm hard of hearing; my battery's down.

Mrs. Jeffrey: Are you part of any other organization, like Fair Vote, or are you here independently?

Mr. Babineau: I'm here independently.

Mrs. Jeffrey: Okay. Can I ask you some questions, because we heard a little bit from the earlier delegation

with regard to the campaign itself, and I haven't read enough of your proposal but I guess I'm wondering about the imposition of some registration requirements on those who wish to campaign, should the referendum occur. Do you have any opinion on that?

Mr. Babineau: My opinion on that is that the question of participating in any kind of election—if you try to restrict that, then there could be grounds for a constitutional challenge. If you try to restrict who can put money—if I want to campaign on my own behalf and I don't have the support of either side for the positions that I want to bring forward, then I'm stuck if I cannot seek to invest my own money into putting my view forward. So that could be one problem that would arise that might give rise to a constitutional challenge.

Mrs. Jeffrey: Thank you.

The Chair: You have another couple of minutes on the government side if you'd like to avail yourself of it.

Mrs. Jeffrey: On the same issue, do you support the imposition of some spending limits, then? You don't want to restrict people participating, but do you support some contribution limits or any kinds of requirements that way?

Mr. Babineau: Well, initially—can you repeat your question? I didn't get it.

Mrs. Jeffrey: Do you support the imposition of spending limits? Should those who are campaigning on either side of the referendum have—just like in any election, should there be a limit as to how much money you can spend on a Yes or a No campaign?

Mr. Babineau: You're asking me to answer a question that, by my own basis and by my own presentation, is moot, because if the referendum cannot go, then any question that would deal with financing the participation of it would defeat the position I am taking. If I answer that question, I am defeating my position.

Mrs. Jeffrey: Thank you, Mr. Chair.

The Chair: Mr. Miller, you have three minutes, sir.

Mr. Miller: Thank you very much, Mr. Babineau, for your presentation this morning and your interest in this issue.

My first question has to do with the threshold that this bill would be enacting, which is the 60% threshold on the question of electoral reform. Do you have an opinion on that threshold? I guess the question is 60% versus 50% plus one.

Mr. Babineau: I sincerely think that if the government goes ahead with it, it will be wasting the people's money, the taxpayers' money, if any is invested into it, because it will never make that threshold. I think that threshold is unfair. I support, on that basis, the people who presented before me is that 50% plus one should be the guideline. I think that if you go beyond that, you'll keep coming back to the electors time and again until you build enough momentum to get it at 60%.

1000

There have been governments elected with almost the full size of the House. In New Brunswick, for instance, when McKenna came in, he had the full place, so you can

have 100% of the people in the House. You can have that kind of thing. But that takes time and it takes a position where there's so much animosity built up that you will get your 60%. But I don't think that there's that much animosity at the present time that it would be fair to the electors to say we need 60%, or the conditions set in section 4.

Mr. Miller: So you're saying basically that we're just going through the motions and it's going to be a waste of money having the 60% threshold. So why do you think the government chose the 60% threshold? Is it, as the last presenters stated "an elegant ruse"? Why do you think they chose that threshold?

Mr. Babineau: My honest opinion on that?

The Chair: You would only give us an honest opinion on that.

Mr. Babineau: I think that they don't want the referendum to succeed.

Mr. Miller: So you're saying they're trying to look progressive, look like they're embracing electoral reform, but they don't really mean it. They just want to look progressive, but they don't really want it to come about.

Mr. Babineau: That's my opinion.

The Chair: Okay, thank you. We'll move to Mr. Prue.

Mr. Prue: Now, on a slightly different issue, because I think the first one has been canvassed enough, you are arguing that this Parliament and this referendum cannot bind the next Parliament. I'm just wondering, in terms of referendum, how would you suggest it be held then? After the next election? Before the next election? If a referendum was to take place, when would you suggest it be held?

Mr. Babineau: I think that if the government seeks to bring some change, it should bring it early in the game so that they could act on it in the given Parliament.

Again, I have a problem as to the way that the question would be set. If the question is set inasmuch as binding the Legislature, I think a strong objection could be raised. If they seek a consensus and, based on that consensus, then reserve the right to legislate, I wouldn't have any problem with that. But if you're putting a referendum that is going to take away the members' right to choose and dictate what action should be taken, I think that could raise some grave constitutional questions.

Mr. Prue: So what you are suggesting in putting both of your comments together is that it would be 50% plus one, that the results should be given to the new Parliament and that the new Parliament should deal with it but not be bound by it when the new Parliament returns after October 4, 2007.

Mr. Babineau: I think that would be the best way of getting around it. As I said in my opening remarks, if you're going to commit to an action, I don't think that would stand. But if you seek a consensus on what should be done and then, based on that consensus, act on it—to me, one of the major problems is the choice of words in the act that I have referred to in my presentation. The fact that the referendum is binding, I don't go so well with that.

And the other thing, too, an issue was raised in an e-mail about the fact that, although this act would pass this time, the next government could decide to repeal it and therefore wouldn't be bound by it. But I think the fact that if the act is passed, if it violates any constitutional conventions or any principles, then it should be attended to.

The Chair: Okay. Thank you very much, Mr. Babineau.

MONTE McMURCHY

The Chair: I'll call on Monte McMurchy, please. Welcome, Mr. McMurchy.

Mr. Monte McMurchy: Just give me a moment or two, please.

The Chair: Okay.

Mr. McMurchy: I want to thank the committee for allowing me to make several comments in dealing with what I consider to be a very essential piece of legislation, for many reasons. In terms of my own background, since 1989 I have participated in at least 30 international elections on behalf of the government of Canada, the United Nations, the Commonwealth, the Organization for Security and Co-operation in Europe and the Council of Europe, on several of which I have acted as the chief executive officer. That included my 10-month sojourn in Liberia with the United Nations. I have seen many traumatic situations.

Before I offer my opinion, I would just like to make several comments. Fifty pages have been deposited on the website of the citizens' committee, the commission on electoral reform, under my name. So that is an extensive brief. But I would like to make several comments before going into what I consider to be the germane aspect of Bill 155, which deals with the threshold.

I can identify four criteria for evaluating electoral systems: the degree to which they promote political, governmental and regime stability; accountability of elected officials; high voter turnout—which I consider to be absolutely paramount for many reasons; and a thorough deliberation of public policy, which in a sense is concomitant with the voter turnout.

Elections perform two primary tasks in constitutional democracies. The first is to provide a means of popular control of government. The second function of the electoral system is far less obvious and more subtle. Elections provide a means not only for the citizens to direct and control their government, but also for the government to direct and control the mass citizenry. By producing public acquiescence to the act of governing, elections empower governments to act. Elections also produce political order out of potential chaos. Elections stabilize and regularize popular participation in government and can provide decisive results about which leaders will direct government. Elections remain the indispensable links between the public and government.

My concern begins with the sober realization of the limited knowledge and interest most citizens have in the political process and procedure. Given an uninterested

and uninformed public, frequently possessing inconsistent policy preferences, elections cannot really function as an exercise in public issue deliberation. The shortcomings of the initiative reveal the folly of demanding too much time and attention from the electorate for such matters. Social choice theory exposes the futility of defining elections as meaningful expressions of the public policy preference. Elections do not make policy. Elections elect leaders to deliberate over policy on our behalf. An electoral system must provide voters an effective method for holding these leaders accountable. Our electoral system will function well if we become realistic about what it can accomplish, which now leads me into Bill 155.

My experience has provided me with the insights of what elections are, almost a form of transfiguration of the social connection ethos between those who are being elected and the electors. For those people who do not participate, for a wide variety of reasons—and I would submit that one of the highest reasons is called ignorance, and I'm not talking about ignorance of lack, but they lack a connection. They don't believe that they're part of the process. There's a distance, there's a void, there's a lack of what I call an emotional, ethnological connection, which begins with what I call education. I'm absolutely adamant that education starts at age three. When young people become more involved, however, on a very facile system or element, then the family or the parents will become more engaged. That is part of the process.

1010

Elections are so indispensable that to change them for an arbitrary number, say 50% plus one, I think would create potential chaos, because it's not the equivalent of selecting an ice cream. It's not the equivalent of adding some chrome to an automobile so that perhaps it would entice people to drive the automobile. Elections can only do a limited aspect, and I subscribe in terms of when you say "organization," you say "oligarchy," and in terms of public interest, in terms of different models, that the human animal, being what it is, prides itself in terms of organizational aspect, notwithstanding.

Participatory democracy is wonderful, but it's actually a myth. I recommend Carole Pateman's book on participatory democracy, which was one of the seminal works published in the 1970s. It basically exploded the premise of active participation. Participation is important; I applaud participation. But we are engaging in what I consider a very integral process. It's very, very important.

I think the debate over what type of model of referendum can be used, if done appropriately, as an educational instrument. But I am on the record for saying that the threshold ought to be at a high level. Not that I wish to maintain the status quo, but rather, if we are going to affect a change, it must be done in such a manner that the vast citizenry are aware of the consequences, and that has been explored, different aspects. No system is ideal, no system is perfect, but to have a simple—what I call a "simplimator," one extra vote to change radically, to me is not what I call sustainable because of the collateral damage which I have witnessed in other regions.

In Kosovo, where I've spent part of the summer as an adviser, they had 31 political entities running for the local parliaments. The citizen voter turnout has declined because the citizens are disengaged: "Why vote? No ministry will take responsibility because they can't govern."

In conclusion, based on my type of experience in terms of election process and procedure, what is absolutely essential, what you need, is an educated citizenry on all levels. I'm not talking about everyone being politically active animals, because that would create a form of dissension so that there would be no change. It would be ossification. But rather, you want to have people who are alert and at least engaged in voting, because by the simple act of crossing an X or making the checkmark you become part of the process and you're taking responsibility—however, on whatever means.

The threshold ought to be at the level of at least two thirds, because to affect what I call the "fundamental systematic change," it ought to be more than just the simple majority. You need to have a healthy debate. You need to have a healthy dialogue. If you're going to radically change the system, the majority of the people ought to at least come out and vote and make the change.

Thank you. Do you have any questions or queries?

The Chair: Thank you very much. We have about six to six and a half minutes. We'll begin with the government side for two minutes.

Mrs. Jeffrey: Thank you for your delegation. Do you have anything written today that we can have? I'm just trying to follow along.

Mr. McMurchy: I can certainly e-mail to the clerk a copy of today's presentation.

Mrs. Jeffrey: Thank you. I was listening and trying to write at the same time. It was very educational. Thank you for being here today and thank you for coming. We appreciate it.

Are you affiliated with any other group? Are you here as an independent?

Mr. McMurchy: I'm here on my own behalf, as an active citizen.

Mrs. Jeffrey: Okay. I wondered, because you started out with talking about how voters don't feel like they're part of the process and that they feel "disengaged"—I think that was the way you described it. How do you feel that the citizens' assembly process has worked? Do you think that's helped people feel engaged? Do you think there has been enough consultation in that forum? Do you think it has been user-friendly? Has that helped in helping people participate and feel like their opinion matters?

Mr. McMurchy: This term is so short, and then the term when they offer their recommendation to the point when the question is put, to me, does not allow enough time.

I think it's important—from my limited participation, the turnout has been actually quite vocal and, on many levels, quite articulate. This goes back to what I call the "educational system" in the sense that it may be laborious, it may be long term—because I recognize that gov-

ernments operate on short-term cycles. What is the first aspect of government? To be re-elected. So making the tough calls is not necessarily what they do in terms of what I call leadership or being statesmanlike. But, rather, they're short-term in terms of principle avoidance.

But in terms of having an active citizenry, it means that they will not be afraid to call their local member of Parliament or their municipal councillor or their federal member and say, "I have a problem. I have issues. I'm not afraid to talk."

Then there is what I call reciprocity, and this is outside the mandate, obviously, but changing the role and function of the backbench MP in terms of enhancing the role and then making a minister of the crown, as they would say, being in trade; that you would then just have people who are experts. Many people would not want to be part of the ministry because they'll be so involved in their own collateral activities as private members with their own research staff and dealing with their constituents.

The Chair: Okay. Mr. Miller, please.

Mr. Miller: Thank you very much for your presentation. I was part of the select committee on electoral reform that travelled to BC, and one of the recommendations in terms of education for the purposes of a referendum in BC was that—their experience was that they didn't educate the public enough. I gather that's one of your key feelings in terms of increasing voter participation in elections, that there needs to be education and much more long-term education. Have you recommendations for what other things you think we should be doing?

Mr. McMurchy: I have spoken to the two ministers who have the file and have provided certain briefing. In terms of civics, it's half a credit course for grade 10. I believe that civics and history and geography and social affairs ought to commence in daycare and go right through the whole system, because when you have a citizen—respect for rule of law, respect for one's elders, respect in terms of social justice—these are qualities which ought to be inculcated. Many families don't have the resources. Many families are disenfranchised; there's not a father figure. I'm not advocating that the schools take that responsibility, but the point is that we live in a very fractionated society in terms of what I call fiduciary duty and obligation.

For instance, my son—when I was in Kosovo about three years ago and when I talked to him, the first question he asked was—I believe he was eight or nine—"Dadda, who won?" I tried to explain that it was a balkanized, fractured system, that no one won. He said, "That's so silly. You need someone to govern." He has been in more voting booths in Canada; he understands that mystical aspect in his own puerile element because he has been constantly engaged and discussed. He can name the local member of Parliament, he knows who the mayor is, he knows who the MP is, in a sense, the various other members, because we talk about it. But this, again, is part of our system. As the government and as members of the Legislature, I think it's something which is non-

partisan. This is something that ought to be done because the ramifications are reducing the crime.

But these are issues which go beyond the four-year cycle and what I term leadership, taking effective responsibility. If I were the leader in Ontario and I said to you, "all-party," how could any other member of Parliament, regardless of which party, say, "No, I don't want an active citizenry. I don't want us to be more engaged"? Then why are they running for public office?

The Chair: Okay. Mr. Prue, please.

Mr. Prue: You started off by saying that average citizens may not be engaged because they are ignorant, because they don't understand the process, they don't understand the changes. Should this be left up to parliamentarians? The reason I'm asking this question is, I think this government set up the process, they ran on this mandate, and they set it up to do it BC-style.

We doubled the franchise in the 1930s by allowing women to vote. It was the right thing to do. And we allowed Chinese-Canadians to vote after that, and then we allowed aboriginal Canadians to vote after that, and we did all of that without a referendum.

Is this something that may be beyond the comprehension, in your view, because you raised this issue, of ordinary Canadians, or can they be educated to the point where there will be a turnout of 70% or 80%, like we can expect in some federal elections?

Mr. McMurchy: That's a fair question, and I thought about that, not trying to be elitist, because you're dealing with nuance. It's not whether you elect to maintain the status quo, which is first past the post, or make an election to modify the system, because the ramifications may be very subtle in terms of the fractionation along ethnic lines, let alone in terms of having no party, whether a minority government is the most effective. These are questions which will only have the response decades later.

1020

What I mean by an educated citizenry: I'm talking about a group of people actively saying, "I'm engaged. I may not know, but I'm not afraid to ask the questions. I'm not afraid to phone up my member and have a dialogue, whether it be with the support staff." By coming out and by having a large group of people engaged, basically what I call devolving the responsibility, no one can say, "I didn't vote because I did not believe in any system, so my vote is negated," and there's a response to that as well. I fervently believe in educating an active citizenry, in having an understanding and saying, "I will make a choice."

The Chair: Thank you very much for your presentation and your perspective.

GARY SHAUL

The Chair: Mr. Gary Shaul, please. Welcome, Mr. Shaul.

Mr. Gary Shaul: Good morning. I'll just get this going here. I indicated to the clerk that I would e-mail my comments in.

The Chair: Great. You have 15 minutes to get going and to go and to respond, so whatever you take, you take.

Mr. Shaul: I'm a computer professional, but I couldn't get my printer working.

I also work for the Ontario Ministry of Education, although, of course, I'm not representing that, and I'm also a member of Fair Vote Ontario, and I'm not representing them as well. These are my comments this morning.

I have been working with the province for over 20 years and I have seen at least four transitions, I think, from one party to another and the shifts in public policy that have resulted from that.

I'd like to thank the government for taking the initiative to establish the select committee, the Democratic Renewal Secretariat and the Ontario citizens' assembly. I'd also like to thank the other parties for their support in the process to date.

I think this is a truly exciting initiative because of the degree to which the public is being engaged in the process and in examining and perhaps improving our electoral system. This is unprecedented in Ontario, although the second such process in Canada. There are few other examples that we can point to, really, in the world of such bodies like the citizens' assembly.

In that respect, the eyes of the world will be on Ontario should the assembly recommend change and there be a referendum. I'm confident that if the assembly can reach a strong consensus for a new voting model for Ontario, there will also be strong public support in the referendum for such changes. Public opinion polling over the last several years shows that there is an appetite for reform of our electoral system in Ontario and in Canada.

Most political observers recognize that there is a growing cynicism and distrust of citizens toward political parties, politicians and sometimes even government. It is not uncommon to hear people say that their vote doesn't matter or doesn't count. There's a growing disengagement as voter participation continues to drop, and I think you're probably all familiar with those statistics.

While most people have a difficult time putting their finger on the problem, because most citizens don't see themselves as political scientists or political animals—only about 1% of Canadians, I believe, belong to political parties—there is a growing awareness that our first-past-the-post voting system is one of the problems when it comes to accountability and fair representation.

It doesn't take a mathematician to explain that many MPPs and MPs are elected with 50% plus one voting for someone other than the person elected, and that every government elected in Ontario since the 1930s has had less than 50% of the popular vote.

There are a lot of provisions in Bill 155, and I'd like to focus on two—the threshold and the public education campaign. I think the two go together.

First, simply put, majority rules. It's well understood—some might argue that it's well ingrained—that a majority means 50% plus one. If any party were to achieve 50% plus one in an Ontario election, most ob-

servers would label that as a decisive, clear majority. It would be highly desirable that any change embraced by the electorate be as high as possible—70%, 80%. The BC experience showed that there was a large appetite for change, even as all the details of the proposed STV system were not well understood.

The government has set a double threshold of 60% plus one of the overall electorate, and the main rationale provided is that a proposal to change the electoral system is foundational, and therefore the universal standard of 50% plus one shouldn't apply. While it's true that there is something foundational about this—or there could be—it is still without precedent except for BC and PEI. However, governments themselves have the power, and have frequently exercised that power, to make foundational changes using a simple majority of parliamentary representatives. Sometimes those changes occur even as the government of the day has less than 50% of support of the people. The great free trade debate of 1988 is one of those examples that come to mind federally. That change affected the foundation of our economy, as we saw hundreds of thousands of manufacturing jobs disappear.

On the provincial front, we've seen governments implement foundational changes to our political system. For example, Bill 36 in the late 1990s, and the Fewer Politicians Act, resulted in the establishment of a permanent voters list and the reduction of the number of ridings by more than 25%. Yet the government of the day had less than 50% of the support of the voters. In fact, no change to our electoral system will take power away from elected governments to make foundational changes to Ontario or Canadian society. We are a parliamentary democracy and that is how it works. What may change is that governments of the future may require support from 50% plus one of the electorate in order to establish their mandate.

As for the second threshold, on the number of ridings that must support the referendum—which is 60% of the ridings having a simple majority of 50% plus one—I believe that that's unnecessary. We all hope that there will be support for change from every corner of the province, but the fact remains that all Ontarians, in my view, are poorly served by the current system. This is not about urban versus rural versus the north or the east; this initiative is about making every vote count, no matter where the voters live. This is really not about ridings. Why should ridings be able to exercise a veto over the majority of the electorate? The solution is to have a fair referendum where those in favour of or opposed to change can put their ideas on the table and have the debate with the voters, not with ridings. This provision can open the door for increasing regional tensions, when, in fact, the problem is not a regional problem or a riding problem but a problem faced by voters everywhere.

This ties into the second point about a public education campaign. All that I really want to say on this is that I hope that the government will allocate the resources required to ensure that every Ontarian has the information they need to make an informed decision,

should there be a referendum. Let's have a fair debate and a fair referendum, and that will lead to a fair result that will be accepted by the public.

The Chair: Thank you, sir. We have about six minutes. We'll begin with the government side.

Mrs. Jeffrey: Thank you, Mr. Shaul. I appreciate your being here. You volunteered that you were a part of Fair Vote. Are you part of any other group that you represent here today?

Mr. Shaul: No. And I'm not representing Fair Vote.

Mrs. Jeffrey: Oh, I understand; you just volunteered that you were part of the group that—

Mr. Shaul: I'm a member of the group.

Mrs. Jeffrey: A member.

Mr. Shaul: I'm a member of other groups, but I'm not representing anyone other than myself.

Mrs. Jeffrey: Okay; I just want to be consistent. I ask that of everybody.

You talked about the public education process, and I wanted to delve a little more into that and what you feel about any regulations, should we have to create them as a result of the citizens' assembly's recommendations and a referendum. Would you support the registration requirements of those groups, or any kind of spending limits that those groups might have, in the course of educating the public about the referendum?

Mr. Shaul: I think there's two parts to that. One is a public education campaign which is undertaken by the government to ensure that information gets to every citizen. The second part would be Yes and No campaigns, also doing public education as well. All I really want to say is, I don't think anyone should be able to buy the referendum, if I can use that kind of terminology, so I wouldn't be averse to the idea of reasonable spending limits. I do think there should be allowed to be a multiplicity of Yes and No campaigns.

Mrs. Jeffrey: Do I have more time?

The Chair: You have another 20 seconds.

1030

Mrs. Jeffrey: I was interested in your conversation that you raised near the end about regional representation and the conflict. How do you see the requirement of the number that we've indicated we need in order to have that threshold in each riding—why do you see that causing a conflict? Can you elaborate a little more on that?

Mr. Shaul: Really, I see the voting system as being about the voters. That's the basic unit I see. Ridings is one way that we organize ourselves to elect members to represent us, but I don't see that ridings, in and of themselves—and especially when we don't know what the proposal is. There may be a proposal that doesn't even affect ridings. So I'm not sure why ridings in and of themselves should have a vote.

The Chair: Mr. Miller.

Mr. Miller: Thank you very much for your presentation. In it you talked about the cynicism that's out there, and I would say that a lot of that cynicism is created when a government gets elected saying they are going to do one thing and then doesn't act on what they

told the voters they were going to do. The last election was a good case for that, especially when the Premier comes out and says he won't raise taxes, gets elected—there's actually a law on the books that requires a referendum if he wants to bring in new taxes and raise new taxes, and he just changed the law so that he didn't have to have a referendum.

I guess my question is: In the process we're involved in, what needs to be done to reduce that cynicism that's out there amongst the voters?

Mr. Shaul: I do think that the voting system itself is only one component of the cynicism, and you're probably right. What the public sees is what governments do once they're elected, and those kinds of flip-flops. I think we need a voting system where the public feels there is more accountability from the people they elect and the governments they elect to the promises that they make. There are also issues around spending limits or election financing. I think some of those have started to be addressed. So voting reform isn't the panacea for all that ails us.

Mr. Miller: I think that's exactly what the select committee on electoral reform found, that how we elect people won't necessarily solve all the various problems we have, including voter cynicism.

Mr. Shaul: But I do think it will go a long way towards starting to rebuild voter engagement.

The Chair: Mr. Prue.

Mr. Prue: Voter education: There's a couple of ways of doing this. One is for the government, or through the government agency Elections Ontario, to send out pamphlets and brochures, which is what they did in British Columbia, I think not too successfully. The other is to have Yes and No sides and to fund them, as they do in Quebec. In my view, that gets a little bit more lively debate. Have you given any thought as to how the public should be educated? At the point in May when this comes down, we're going to have 103 educated people, and then the rest of us are going to have to be educated on what they come up with. How would you do it?

Mr. Shaul: I think one of the interesting innovations here is the use of TVO in the process and having the citizens' assembly plenary sessions open to the public. While the public hasn't been flocking to that, and I think you have to go on the TVO website to access the deliberations, there are a number of ways—I haven't given a lot of thought as to whether there should be public funding for a Yes and No side, but I do think that on the government side there has to be adequate funding for getting the message out to households through mailings and advertising and that kind of thing.

The Chair: Thank you very much for your presentation.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: I call on Leah Casselman, please.

Welcome. I think you know how the process works. You have 15 minutes to make your presentation, and if

by chance there's any time left, it will ideally be equally divided amongst the parties.

Ms. Leah Casselman: Thank you very much. My name is Leah Casselman and I am president of the Ontario Public Service Employees Union. Good morning. With me is Tim Little, who is our legislative liaison with OPSEU.

OPSEU represents 115,000 people in Ontario. A lot of them are Ontario government workers, workers in the community colleges—hopefully soon, with the good graces of the government, the part-time workers in the community colleges—and the broader public sector. But one thing that all of our members have in common is that they are voters, and more so voters, I think, since the Tories were in power; they certainly pay a lot more attention to politics.

Thank you for the opportunity to speak today about Bill 155. I'll keep my remarks brief and look forward to your questions afterwards. We believe the time for electoral reform in Ontario is long overdue. The current model of our first-past-the-post voting system is severely flawed. The current system alienates and under-represents women, minority groups and young people. For more than 60 years, it has unjustly granted majority status to a political party in the Legislature even though the majority of voters have supported other parties in every election since 1937.

The executive board of OPSEU adopted five principles for electoral reform. They are:

(1) The threshold for changing must be a simple majority of 50% plus one. We reject the Liberal proposal of a so-called "super double majority."

(2) Electoral reform must recognize geographic representation and regional diversity.

(3) Each vote must be of equal weight. Let's abandon the legacy that majority governments are elected by only a minority of votes.

(4) A reformed electoral system must be easy to understand.

(5) Most importantly, Ontario must adopt some model of proportional representation. The current system of first past the post is undemocratic and outmoded. Except for Canada, Britain and the US—and no one wants to be with those parties these days—virtually every Liberal democracy in the world has adopted a form of proportional representation.

By and large, Bill 155 is a solid piece of legislation, setting out the rules under which a referendum will be governed. Notwithstanding our profound opposition to the status quo voting system, we can, in Ontario, take pride in the fact that our elections have been administered in a manner that meets an exemplary level of professionalism. In this respect, we anticipate that a referendum would be no different.

Bill 155 does contain some egregious weaknesses and oversights, and I urge the committee members to make the appropriate amendments. OPSEU believes subsection 3(1) should be amended. The actual wording of the referendum should be passed by the Legislature—not left

to an order by the Lieutenant Governor in Council, otherwise known as the cabinet. This ensures that the wording will be, as the bill says, "clear, concise and impartial."

As I mentioned a moment ago, electoral reform can be achieved by simple majority, 50% plus one. This threshold is the essence and historic standard applied to democratic decision-making. We firmly reject the Liberal government's proposal for a so-called "super double majority" as contained in section 4, clauses (a) and (b). The super double majority is not a standard we apply to other legislation. Why, then, is it being proposed here? Is it because, as many of us suspect, this government does not wholeheartedly endorse electoral reform and therefore is setting the bar so unrealistically high as to thwart the will of the people? I sincerely hope not. Experience in British Columbia two years ago showed how this can be used to stifle the will of the majority.

Under subsection 8(1), we believe the responsibility of scrutineers must be reconsidered by the committee. We see no harm in allowing scrutineers for the political parties to also serve as scrutineers for the referendum count. Recruiting inside scrutineers is difficult enough for parties; recruiting thousands of additional referendum scrutineers could prove very problematic and costly.

Under the proposed legislation, the Lieutenant Governor in Council is granted broad powers to make regulations respecting and governing the referendum and referendum campaign financing. In fact, too much regulatory discretion is put in the hands of cabinet. For example, campaign finance rules should be incorporated into Bill 155, just as election financing rules for general elections are contained in the Elections Act.

Because a number of discretionary regulations are left up to the cabinet, the bill is deliberately vague on several issues relating to financing, such as: What is the status of "in kind" donations; are donations to registered referendum groups tax deductible; when are registered referendum groups allowed to begin fundraising and to start their campaigns? These are issues not addressed in the bill.

1040

OPSEU is also troubled by what seems to be a minimal effort by the government to conduct a public education campaign in support of a referendum on electoral reform. Apart from the referendum on the Charlottetown accord almost 15 years ago, which was conducted by the federal government, most of us would be hard-pressed to recall the last time the people of Ontario voted in a province-wide plebiscite of any sort. A referendum is not just another exercise in election polling. It is a rare event that most people are unfamiliar with. Minimal advertising is not sufficient. For that reason alone, we are calling on the Ontario government to formally commit itself to a well-financed public education campaign that would explain to the people of Ontario what the referendum is all about and the importance of getting the vote out. We believe the government should commit itself to a minimum of \$2 per eligible voter that would be dedicated to a public education campaign.

OPSEU strongly supports electoral reform and looks forward to the final recommendations of the citizens' assembly. We are troubled, though, by this government's foot-dragging on electoral reform which seems evident in parts of the proposed Bill 155. It bears repeating: Too much regulatory authority rests in the hands of the Premier and the cabinet. OPSEU believes this authority more properly rests with the Legislature. Final reading of Bill 155 should be a bridge-building exercise linking all three parties at Queen's Park.

We are approaching an historic moment in this province. We are on the cusp of reforming our dysfunctional electoral system and opening new possibilities to minority groups, women, young people and those who live great distances from the centres of power. If so recommended by the citizens' assembly, Ontario is about to begin a great debate about our future way of voting. Let's do it right. Let's make the referendum exercise as open and transparent as possible. Let's educate our citizens on the importance of participating in a referendum.

I call on committee members to incorporate the changes to Bill 155 that I have put forward today on behalf of the Ontario Public Service Employees Union. It is our contribution to making this a better bill and a better province for all Ontarians. Thank you very much.

The Chair: Thank you, Ms. Casselman. We have about six minutes, two minutes each, again beginning with the government side.

Mrs. Jeffrey: Thank you for being here and for such a thoughtful presentation. It's very practical. I wanted to ask you some quick questions—I don't have a lot of time—about the campaign finance rules that you mentioned here, the donations and the registered referendum groups. This is our chance to hear from you what you would recommend. What would your recommendations be in this regard?

Ms. Casselman: Before I turn it over to Tim, I think the simple answer is to apply the election campaign rules that you folks are working under as well. There's no point in creating a separate system that's more convoluted and different and all that kind of stuff, and even more confusing for people. So just apply the same rules that we do currently to your elections.

Mr. Tim Little: I want to emphasize the same point. There's obviously a great deal of detail in the bill about all the nuances of how a recount is to happen, who handles ballot boxes, who is to be a scrutineer and who is not, and yet the whole question of the financing of any Yes and No campaigns is left to the complete discretion of the cabinet. We think you should read entire sections of the Election Act into the bill so that it's clear and democratically decided on by all parties what the limit of a contribution is. Basically, that's the essence of it—what contributions can be, perhaps a spending ceiling—but explicitly what is democratic on the financing.

Mr. Miller: Thank you for your presentation this morning. I note your point that the actual wording of the referendum question should be decided by the Legislature. That was, in fact, the recommendation of the

select committee on electoral reform: "The committee recommends that responsibility for the referendum question(s)—including the wording and number of questions to be asked, and the number of referendums to be held—rest ultimately with the Legislature, acting on the advice of the citizens' assembly."

So that was the position of the select committee. I'm not sure why the government didn't decide to follow that.

I have a question. You started out your presentation and you said that one of the reasons you want electoral reform is to get better representation, for example, by women in the Legislature. I guess my question is, how will the way we elect people bring that about?

I know the parties can certainly play a role under the current system. Our party, under the leadership of John Tory, has actively tried to get more women involved. In fact, in the last two by-elections our members were women, and in the current three by-elections two of our candidates were women. So we've made a definite decision to try to recruit excellent, qualified candidates we hope will win. I'm wondering how you see changing the electoral process will bring that about.

The Chair: In fairness to Mr. Prue, you have about 35 seconds to answer that.

Ms. Casselman: I think it all depends on the model recommended by the citizens' assembly, but there are some models in there where you'll have some elections and then you'll have a list, and clearly the parties would then have an opportunity to make sure the population has more well-balanced representation in the Legislature. That's certainly what we're looking for.

The Chair: Thank you. Mr. Prue.

Mr. Prue: I just want to correct one small error here. You say, "Except for Canada, Britain and the US, virtually every liberal democracy in the world has adopted a form of proportional representation." In fact, Britain, both in the Scottish and Welsh Parliaments, has proportional representation, and they've increased the number of women there to 50% in just one shot.

Ms. Casselman: Fabulous.

Mr. Prue: That's what happens, just so you know.

My question really goes to the referendum question being debated in the Legislature. I am in complete agreement with what you have said here. In British Columbia, the two parties that exist in that Legislature sat down and argued out and came to a compromise on the referendum question. Here it is going to be the sole prerogative of the Lieutenant Governor in Council. I doubt very much even the backbench Liberals will have any say in how this question is going to be made. How do you think that's going to impact the public's mood in terms of it being a fair question?

Ms. Casselman: I think there's a real interest in Ontario for electoral reform. Everyone is kind of frustrated with the current system, whether you're sitting in power or not; at some point, you're frustrated with the current system. I would suggest that if the electorate sees the three parties debating this issue, coming to a consensus on a question, then it takes it out of the political

realm of saying, "Oh, this is just the Liberals' way of doing things or the Tories' way of doing things or the NDP's way." It's actually, "We want the citizens' input on electoral reform, so we're jointly going to draft this question." I think that brings it up to a higher standard, where people kind of go, "Wow. I guess they're all serious about this. Maybe we should pay attention and maybe have a really good discussion about this." That's my issue for trying to get all three parties on the same page on this: Take the politics away from it, because it's such a critical issue for us as voters.

The Chair: Thank you very much.

Ms. Casselman: Thank you.

GORD GARLAND

The Chair: Is Mr. Gord Garland here, please? Welcome, Mr. Garland. You've been here for a while, so I think you know how we proceed. You have 15 minutes, sir. I understand that the opinion piece "Public Inquiry Needed into '99 Election" is from you as well.

Mr. Gord Garland: Yes, and the companion piece, with the cartoon, "How the Decks Were Stacked Against Democracy."

The Chair: Very good. Thanks.

Mr. Garland: I'd like to begin by thanking the Legislature, the government and this committee for holding public hearings. I'm told that I have 15 minutes, so I'll try to restrict my presentation to 10 minutes and then allow five minutes for questions.

The Chair: Good.

1050

Mr. Garland: I want to comment on the bill in two respects: firstly, what is in it, specifically the threshold for acceptance; and secondly, what is not in it—and what is not in it is the full enumeration of all eligible voters.

But before I do that, I'd like to set the stage for why we're beginning to engage in a great debate about democracy. I don't come to this topic lightly. The most radical change in election laws in the past 50 years was actually instituted by the Harris government, and it was Bill 36, the Election Act changes, and a companion piece of legislation called the Fewer Politicians Act, which reduced the number of ridings by 30 seats in Ontario and basically took the boundaries of federal ridings.

I just want to talk briefly about how Bill 36 was actually passed. It was passed by a majority government that had significantly less than 50% of the popular vote but significantly more than 50% of the seats. It was rammed through the Legislature in three sittings over 15 days in June of 1998. It established a permanent voters list; got rid of full enumeration of all eligible voters; it reduced the time periods for elections by about 25%; and it instituted larger ridings, again the companion Fewer Politicians Act, which meant that ridings were now 25% larger. So if you have 25% less time to cover ridings that are 25% larger, what it really means is that the candidate at the local level has 50% less opportunity during an election to actually meet voters. So this is one of the most

fundamental changes in Ontario's election laws in the last 50 years. It's rammed through the Legislature in three sittings over 15 days in June of 1998, no public hearings or opposition party amendments allowed.

"How the Decks were Stacked Against Democracy" is the article that I wrote for the Toronto Star so that the public would actually be informed of what was taking place in this Legislature when question period was even reduced to a sideshow circus that took place in the evening.

When we look at electoral reform, what are we really trying to accomplish? I think we're trying to accomplish a system of elections that actually reflects voter preferences. The simplest model of electoral reform is basically correcting the imbalance between seats won and the percentage of the popular vote. Simply put, it's a corrector model. You don't even have to change riding boundaries. All you have to do is add 25% more seats to the Legislature, which would basically be recouping the 30 seats that were in a sense lost through the Fewer Politicians Act, but those 25% of new seats would be for at-large members that correct for the imbalance between seats won and the proportion of the popular vote. One example: a party gets 35% of the popular vote and only wins 30% of the seats. Under this corrector model, simply put, if it was 100 seats at the riding level they would get five seats from that corrector pool to compensate so that they actually have 35% overall of the seats in the Legislature because they had 35% of voter preferences in their favour.

So electoral reform doesn't mean a radical restructuring of riding boundaries. In its simplest form, it basically means an add-on that corrects for the imbalance between seats won and percentage of the popular vote. But there is a bias in it in favour of ridings. So, for example, if a party received 30% of the vote and won 35% of the ridings, there is no subtraction, because in essence the voters have spoken at the riding level. So in a nutshell, electoral reform doesn't have to be radical; and if it isn't radical, why does it require a double super majority?

I want to comment on the bill in two respects: what is in it, the threshold for acceptance; and what is not in it, the full enumeration of all eligible voters. I actually took the opportunity to read through the select committee on electoral reform report and made a number of notes as I went through. I want to read to you the notes that I made on the cover of the report after considering it in some depth. The actual report itself is 48 pages. The appendices to the report are 44 pages. Actually, the appendices, because they reveal factual information about various systems of electoral reform as they are actually practised in different jurisdictions, I found actually more revealing about what the implications of changing an election system are.

The key thing in terms of a criticism of the committee's report is that they don't make the case of why we need electoral reform. They do mention declining voter participation, and basically voter participation over a little more than 10 years has declined from 64% of

eligible voters to 58% of eligible voters. I believe it's a fundamental right of every qualified elector to be on the voters list, and the only way to ensure that happens is a full enumeration of all eligible voters. If you want to increase voter turnout, simply put, ensure that everybody is on the voters list, and ensure that that takes place when the election campaign begins or the referendum campaign is in full swing.

So let's deal with the threshold of acceptance. We have this dual threshold that's being recommended: 60% overall, and 50% plus one in 60% of the ridings. If you look back—

The Chair: You have about five minutes now.

Mr. Garland: Okay. If you look back historically, there has been no political party in Ontario that has been elected as a majority government with 60% of the popular vote. It seems to me that you're establishing a standard so that the referendum is designed to fail, and it's a standard that you don't even accept for yourselves. So maybe it's a double standard.

The second thing is about the ridings. If there's no fundamental change in riding boundaries, why have a 60%-of-ridings qualification? Fifty per cent plus one in 50% of the ridings, I think, will do it, and the reality is that if that's achievable, it clearly demonstrates a standard of acceptance that is far above the standard of acceptance for majority governments.

In terms of what is not in the bill is the full enumeration of all eligible voters. If this referendum is important, I think it's important that you ensure that everybody has the full opportunity to participate. I did an analysis of the 1999 election results for a report that was done by a professor at York University using two pieces of factual information: the Elections Canada statement of data quality, and the chief election officer's report on the 1999 election.

The analysis showed that there were 1.2 million eligible voters left off the initial register; in other words, the permanent voters list. Of those, approximately half, 618,000, were added to the final list during the election, and the remainder, 623,000, were not added and thus could not vote. It would be a large mistake to discount the impact of over 600,000 eligible voters. They would certainly have affected the final outcome of the 1999 election. Some 600,000 eligible voters ultimately missed, times the participation rate of 57% in that election, gives us a low estimate of 360,000 votes that never took place. In that 1999 election, the first election with a permanent voters list and the first election with these radical changes by Bill 36, the difference between a majority and a minority government was a total of about 10,000 votes in eight ridings. You figure it out.

Thank you very much for the opportunity to speak with you, and I'd be pleased to answer any questions.

The Chair: We've only got about a minute left, so it's going to be hard to ask questions. Would you like to speak for another minute?

Mr. Garland: No, I'd like to give you the opportunity to ask a question, and I can answer it in 30 seconds if you can deliver it in 30 seconds.

The Chair: Okay. We'll go to the government side, then, for one minute.

Mrs. Jeffrey: Thank you for being here and for your thoughtful presentation. It was very interesting. Do you support the idea of the referendum at all?

1100

Mr. Garland: Well, I think a referendum gives people an opportunity to express their opinion on a specific topic, and there's no doubt that electoral reform, if that's what is being recommended by the citizens' assembly, will require informing the public and actually canvassing their opinion, because it's one thing for a group of 103 people to propose something, and it's another thing for a group of five million to accept it.

The Chair: Mr. Garland, thanks so much for taking the time to be with us today and to share your views. We appreciate it.

Mr. Garland: It was a pleasure being with you.

JOHN DEVERELL

PETER ROSENTHAL

The Chair: Mr. Deverell, please.

Mr. John Deverell: Thank you, Mr. Chair. First of all, may I ask the clerk, do the members have this document? Thank you.

My name is John Deverell. I am a journalist with a long-standing interest in Ontario politics and voting reform. I am an officer of Fair Vote Canada, although I speak on my own behalf today. I've brought with me, because we are discussing a legal dimension of all of this, Peter Rosenthal, who is a University of Toronto professor and a barrister and solicitor, one of his areas of specialty being election law. So I hope he'll be able to help you with the high-powered questions.

I won't take you through what the charter says, but it is arguable that the current first-past-the-post electoral system contravenes the fairness required by section 3 and also contravenes the equality rights pursuant to section 15 of the Canadian Charter of Rights and Freedoms, which of course legislators should always have in mind as they are drafting legislation. Several groups and individuals are contemplating taking this question to court in connection with the Canada Elections Act, but the implications would apply to the provincial acts, which are modelled on the federal one.

The Ontario government has promised to hold a referendum on any alternative its citizens' assembly may recommend. However, after that assembly was appointed, we got the announcement of an unusual high double threshold for the success of the referendum. It's disappointing to us to see this undemocratic double threshold proposed in a Legislature which deems itself democratic. As other delegations, other speakers, have pointed out here today, few MPPs have received even a simple majority of the votes cast in their ridings, yet MPPs receiving less than half the vote find themselves competent to pass laws and claim that they have a

mandate from the people. Why do those elected with such slim support choose to set the referendum bar so high?

The sponsors of Bill 155 justify the high double threshold by saying the voting reform decision is “foundational.” It is true that it’s important. It does not follow, however, that this requires biasing a once-in-a-lifetime referendum in favour of perpetuation of a pre-charter and almost prehistoric voting system which no living Ontario citizen has ever had the opportunity to choose or reject.

In this building, MPP Linda Jeffrey, parliamentary assistant to the minister responsible for democratic renewal, said on November 16, “For the first time in our province’s history, Ontarians are being asked to participate in a full, open debate on our electoral system. This won’t happen again.” If it won’t happen again, it is crucial that it be done fairly this time. A full, open debate is a charade if the bar to change is set so high as to make it almost impossible to achieve. There is no legitimate reason to structure the referendum vote so as to strongly favour the status quo.

I have also offered the committee an article called “Making Democracy Constitutional,” published in a book from the Institute for Research on Public Policy, in which constitutional law professor David Beatty of the University of Toronto argues convincingly that the charter entitles citizens to equal, effective votes and that the current provincial voting system—in this case he’s arguing about the federal voting system, the same system—is far from fulfilling that charter entitlement.

There is a better alternative. He says, why not just refer the question to the Supreme Court—again, in the federal context. There is a better way of deciding these questions, and we’re on that path: the citizens’ assembly and a referendum is the democratic way of addressing a fundamental question about how we run the democracy. But then there is the undemocratic standard set in the threshold. If 59%, of voters say yes to electoral reform, there will still be no reform. A minority of the voters can deny the majority their once-in-a-lifetime opportunity to switch to a democratic voting system.

Under Bill 155, two No voters can thwart three Yes voters. In effect, it issues No voters ballots worth 50% more than the ballots issued to Yes voters. The bill gives No voters super-votes, and with them a substantial minority veto power and a strong incentive to turn out and vote.

It has been recognized by the courts that members of the Legislature and of Parliament have a vested interest in the electoral system that elected them. As Justice Louise Arbour wrote for the Ontario Court of Appeal in a case—I won’t read that for you—there is a conflict of interest when you’re asked to examine the rules by which you achieve office.

The requirement of 60% for affirmation of any change in that voting system is a limit on the franchise, which is constitutionally forbidden.

The 60% threshold will have the consequence not only of encouraging no voters to turn out, but possibly dis-

couraging some people who would like to see electoral reform would not turn out because they regard the barrier as too high.

How should your bill be fixed? Easily and simply, the provincial threshold should be set at the democratic norm, 50% plus one, just as you have set it in the bill’s standard for the decision in each riding. If it’s good enough riding by riding, why isn’t it good enough overall?

Any court judging our current electoral system—and this judgment will eventually come—will have to consider whether the question of reform should properly be left to Parliament and the Legislatures. Should the 60% threshold remain in place, it will be strong evidence that legislators’ self-interests are preventing them from allowing fair determination of the proper nature of our voting system. The consequence will be that the courts must do the job that the Legislature can’t do and bring us a truly democratic voting system.

Thank you for your attention. Peter and I would be happy to answer any questions you may have.

The Chair: We thank you very much. We have about nine minutes, three minutes each, so we’ll begin with Mr. Miller.

Mr. Miller: Thank you very much for your presentation this morning. I should point out that I have a conflict on this because I knew Mr. Deverell in my past life as a resort operator, because he was a guest for a number of years with his family at our lodge.

Mr. Deverell: And a good time we had.

The Chair: What happens in Muskoka stays in Muskoka.

Mr. Miller: Also, I note that it’s a family affair. Your daughter was involved with the student citizens’ assembly. In fact, I was up at the Deerhurst Resort, where it was occurring, and she introduced me as a panellist at that event.

My question: You used the term “charade” for the process we’re going through. A previous presenter said that this is an elegant ruse we’re involved in, basically because of the 60% threshold. Why do you think the government chose the 60% threshold for this?

Mr. Deverell: I don’t have any inside insight; I just have the sense that any of us would have, looking from the outside. The threshold has been set to make any change very difficult to adopt. The threshold has been set to maximize the possibility that the present voting system will be retained.

Can that threshold be exceeded? It’s possible. They came awfully close in British Columbia: Without very much public advertising, the vote was 57.5%, I think. So it’s not that it’s impossible to get over this threshold; it’s that it’s very difficult, unfairly so and unconstitutionally so. Why a government would choose to introduce legislation which is probably unconstitutional, I think the government has to explain.

1110

Mr. Miller: You started out by saying that section 3 of the Charter of Rights—I think it was the fairness

section—and also the section on equality rights might be unconstitutional. I guess I'll ask Mr. Rosenthal. It's probably a difficult thing to answer in 30 seconds, but what's the likelihood of success of a charter challenge on this?

Mr. Peter Rosenthal: Well, it's hard to estimate the chance of success. It's certainly a very arguable case, in my view. There has been reading into section 3 of the charter, by the Supreme Court, a degree of fairness that seems to be inconsistent with the first-past-the-post system.

There is also, as Mr. Deverell read, this striking sort of passage—he didn't actually read the passage, section 3 of the charter—that the courts have to give special scrutiny to because, as Justice Arbour said, "The right to vote must be protected against those who have the capacity, and often the interest, to limit the franchise." In other words you people, because you do have a vested interest in the electoral system, a very personal vested interest.

It is my view that keeping this 60% threshold would be a very powerful additional argument for you to make. If we're bringing this case to court, which I do expect to do if the referendum isn't done fairly, I think it would be further evidence that the legislators cannot be trusted with the electoral system if they set such a high threshold.

The Chair: Thank you.

Mr. Prue: I have a couple of questions. I believe that all members got a letter from a member of the citizens' assembly. I certainly know I got one, and it said it was being sent to all members. The member of the citizens' assembly, one of those lucky 103 people, has written to us and she says to us quite categorically that the citizens' assembly members are dismayed at the fact that this Legislature may set a bar of 60% and feel that they may be going through this exercise for nothing. Would that, in your view, have any impact on the quality of what they might produce or their willingness to go the extra mile or to do the best job?

Mr. Deverell: I think it's possible, but it's very difficult to estimate. If we were in their position—you take the job thinking you know what it is, which is to make a recommendation and there will be a referendum. You would probably assume that that would be done the way most referendums have been done in this country, by the usual method of 50% plus one. So you would know your task and you would know the bar that you were thinking of. Then this extra-high barrier is introduced.

Now, how does one respond to that? Does one start to try to diminish the arguments you'd otherwise make to try to make your package more acceptable to more people? And is there actually any way to do that? I think it creates some confusion and apprehension in the minds of the citizens because they've got two different concepts to work with: What would be good enough for a simple majority, and is there anything that would be good enough for 60% of the people? But I think it's all speculation, because there are 103 people there, brought together for the purpose. They do not have any group ideology other than trying to serve the public interest.

Mr. Prue: But it is not without the realm of possibility, though, that people, such as this one elector who's working away, may influence the kind of decision they're making, to water it down to make it more—rather than something they really want to do because they're looking at this supermajority.

Mr. Deverell: I think it's fair to say that it's made their task more difficult because they have to try to reach a consensus. This must make it more difficult to reach a consensus.

Mr. Rosenthal: Yes, I would certainly agree with what Mr. Prue said. There's no doubt that's going to have to be in the minds of some of the 103 people. We don't know them all, but if they're reasonable people, some of them are going to have to be thinking, "How can we try and get something to squeak through this impossible threshold?" It's going to dilute the discussions in a serious way. It's also going to lead to some people not voting at all, some people just turning off from the whole matter, within the 103, within the populace of Ontario. So I really hope that this committee recommends that the assembly reject that threshold and put back 50%. What's the problem? Suppose 50% vote for a change? Let's have a change. Let's see what happens here.

The Chair: Okay. Gentlemen, thank you very much. We appreciate your perspective.

DAVID RAPAPORT

The Chair: David Rapaport. Welcome, Mr. Rapaport.

Mr. David Rapaport: Thank you.

The Chair: It's good to have you with us. You, sir, have 15 minutes. Make yourself comfortable and please share your views with us.

Mr. Rapaport: Thank you very much. I was listening to the last presentation and a bit of the one before, so I'm not sure that I'll be adding all that much, but a certain perspective that I consider my own, of course. Thank you for this opportunity.

Electoral reform is long overdue in Ontario. The current system is not working. It is not democratic. Parliamentary majorities rarely get electoral majorities in our multi-party system. I think the last one was in the 1940s, if I'm not mistaken. The current slide towards electoral cynicism and non-involvement can be mitigated by making real democratic electoral reform. I applaud the government for moving down that road, or trying to move down that road.

Like many Ontarians, I feel left out of the formation of new Parliaments with our first-past-the-post system. If my candidate does not win—and it does happen—and the successful candidate gets less than 50% of the vote—which does happen—in my riding, then I feel that democracy has not been served and that my voice has been muted, and that's not unusual. Sometimes governments receive parliamentary majorities with electoral minorities and still make radical reform. One government even reduced the number of ridings from 130 to 99. That was in the first Conservative mandate. The election was in

1995 and they got about 44% to 45% of the vote and they went ahead and made some very serious changes to our electoral system.

That brings me to the main point of my presentation: I do not support the proposed 60% threshold for making change and accepting the question on the referendum. It is ironic that the proposal requires more than 50% plus one to make change and that a minority can hold back change. Again, we are looking at tyranny of the minority. Why not include the less than democratic status quo on the referendum and require 60% to maintain that status quo, which is widely criticized? That's to be consistent with everything else that's being presented, including the proposed change that we're expecting. Democracy means 50% plus one no matter how you might try to spin the number. There is no way around that simple fact, particularly when trying to reform an undemocratic system that actually permitted a government with 45% of the vote to reduce the number of seats, and, some would argue, to their advantage. If the results of the referendum are that 50% of the voters agree to electoral reform and the threshold remains at 60%, once again I will feel burnt by the system. Once again it will cause more Ontarians to feel more cynical about the electoral process.

I just want to touch on a few other matters as well. Enumeration: The Chief Electoral Officer of Ontario should do a complete enumeration of voters before the referendum in October. This has not been done for quite a while and the time is long overdue. Too many voters might be excluded from the lists and the process, particularly younger voters and tenants in urban areas who move around more frequently.

1120

Public education: There should be extensive education on the electoral reform and the question before the referendum. Democracy means informed participation. Let there be a full and stimulating debate and discussion prior to the actual referendum. It can actually be quite fascinating.

Finally, the recommendations from the citizens' assembly should serve as the basis for the question being posed in October. The citizens' assembly is engaged in a democratic consultation process and discussion with Ontarians. They are hearing the views of folks who want to move this forward. I participated in that process about a week and a half ago in Etobicoke, and I was impressed by the level of debate and the passion of people's views. They, the citizens' assembly, are closest to the issue, and those who took the time and the effort to participate in that process should be respected. Thank you for your time.

The Chair: Thank you. You've left plenty of time for questions, about nine minutes. We'll begin with the government side.

Mrs. Jeffrey: Thank you for being here, Mr. Rapaport. I appreciate your thoughtful suggestions and your brevity, because some of the issues have been covered today. Can you tell me if you're part of any organization here today? Are you part of Fair Vote or any other organization here?

Mr. Rapaport: I am an executive board member of the Ontario Public Service Employees Union. I'm not speaking on their behalf, but my views coincide with the union's views, and I see that Leah Casselman was here earlier doing that. So I'm speaking on my own today.

Mrs. Jeffrey: Okay. Thank you. Do you support the process that we have undertaken to engage people with regard to the citizens' assembly?

Mr. Rapaport: Oh, yes. So much so that I actually took the time and the effort to produce a brief, which I did present.

Mrs. Jeffrey: Oh, okay.

I think what we've heard this morning is that we're setting up a referendum that's designed to fail, with such a high threshold. I would argue that, in a sense, we feel the threshold is a testament to the work that the citizens' assembly is doing and its importance and its fundamental change that could occur, should they recommend a big change. You speak also about your dissatisfaction with that threshold. Do you feel like it's going to discourage the voter, as we heard from the earlier presenter? There isn't any proof that that will discourage the electorate, but do you have that sense that it will?

Mr. Rapaport: It could discourage voters in the sense that, "Oh, here we go again; some votes are worth more than others." I don't know what happened in your riding, but you could have ridings where 38% or 39%, or even less, in a very close three-way race can determine the outcome. So the voters who went with the winning side—their vote is going to be worth more than those who went with another side. I think my concern is more what happens afterwards. Let's assume the citizens' assembly comes up with a proposal—which they will, I assume—and let's say 58% of Ontarians agree with it, and of course that sort of happened in British Columbia. So once again, 42% are going to trump 58%, which, as I said in my presentation, can result in increased cynicism about the electoral system. A democracy means a majority—that's my understanding—particularly something as important as this. So if I was on a citizens' assembly, I would feel unhappy about that 60%.

The Acting Chair (Ms. Jennifer F. Mossop): Thank you very much. That wraps up the time for the government side. Mr. Miller.

Mr. Miller: Thank you for your presentation today. I guess my question is about the 60% threshold, to begin with. Do you think the government was serious about electoral reform when they picked this 60% threshold?

Mr. Rapaport: I thought that they were serious when they embarked on this path and they were talking about the process that they were going to do, but I would have to say that that view got somewhat mitigated by the 60%. I would hope that, in the event that it does go over 60%, that will be respected. So are they serious about it? Well, I don't see it as a black/white thing so much—let's just say, less serious than I would've hoped.

Mr. Miller: I sat on the select committee on electoral reform. We travelled to BC, and one of the concerns with the process they went through there was education after

the citizens' assembly had made a recommendation. Do you have any thoughts on education and how much public money should be involved, and should both the Yes and No sides be funded? Any particular thoughts on that?

Mr. Rapaport: I think education is very important. I think it should be front and centre in people's minds when they do go to the—I mean, other than elections that you folks are going to be engaged in, of course. That's a joke.

This should really be front and centre. They should engage in public education through the media, through any kind of mechanism that can be available. How much money should they spend? I'm in no position to put a price tag on it, but I would say it should be substantial. This is so important, from my point of view, from lots of people's points of view. It should be a significant debate that's out there.

The Acting Chair: Very good. Thank you. Mr. Prue?

Mr. Prue: In British Columbia, one of the key people from the No forces, who opposed the change that was being recommended, openly bragged to the press that he was going to win even though he knew that the other side was going to get more votes. Do you foresee this happening in Ontario where the No forces, even if they're out-gunned and even if they're going to lose, only have to get 40% plus one to pull it off?

Mr. Rapaport: Well, I don't know. I hope that doesn't happen, where somebody who is going to oppose the change is going to engage in that kind of bravado. I think that would just add to the cynicism that goes on. But getting back to the basis of it, the proposal of the threshold actually gives some wind in the sails, I suppose, of those who are actually going to oppose the referendum. They're going to feel a sense more—it's like going into a hockey game, I suppose. If one side has to score more than the other side to actually win the game, then the side that is going to have to score fewer goals is going to feel like they have a really big advantage in terms of the outcome. The way I've been raised and the way I think, that's something I don't think is really fair. Let's hope that the legislation is changed.

Mr. Prue: Now, in terms of public education—I asked this question earlier. I don't know if you were in the room. There are two ways, really, of doing the public education: the way that British Columbia did it, by having their electoral commission send out a flyer to every household a few weeks before the actual voting day, outlining what the democratic reform was, or the way Quebec holds their referendums, by funding both the Yes and No sides, making sure that the documents are fair; there is some role for the government to make sure they're fair, but then letting the Yes and No sides go out and make the public arguments and to engage. Which one do you think would better inform the public?

Mr. Rapaport: Again, I would think the one that actually promotes citizen participation in the discussion. It could be a dry discussion or it could be a rich discussion. I'd like to see it go forward. The problem that

you had in Quebec with the referendum, if I remember this correctly, is that it opened up room for some kinds of abuse that took place. I think it was the federalist side that was actually getting more money; I'm not sure exactly. But it does open up that door.

Whatever it is, if they do decide to go there, I hope it's a 50-50 arrangement, unlike the threshold situation. But if you ask me, I would prefer seeing a public debate conducted through the media.

Mr. Prue: Is there still time?

The Chair: Somebody has up to another minute.

Mr. Prue: Okay. I have another question, then, on enumeration. We have not been properly enumerated in this province in a number of years.

Mr. Rapaport: Nine years, I think.

Mr. Prue: Yes. In that entire period, in every election I have had to go register again because in every election I am not enumerated. I'm an MPP, and before that I was a member of city council and before that the mayor. If I have to do it, I think tens of thousands or hundreds of thousands of people are just like me, and some probably don't bother. Should we be going back to that system of enumeration?

1130

Mr. Rapaport: Absolutely. In my house, where I live, I sometimes have tenants. People who were living there two, three years before the election was called and have since moved are still on the list, and I have to have them removed. So it works the other way as well. Sometimes people are listed in places where they shouldn't be. I would recommend strongly that there be enumeration.

The Chair: Thanks so much.

UNIVERSITY OF VICTORIA

The Chair: We now have Professor Dennis Pilon by videoconference. Welcome, Professor. We look forward to hearing your views. You have 15 minutes.

Dr. Dennis Pilon: Thank you. My comments will be directed specifically toward clauses 4(a) and 4(b) of the bill, the decision rule for the referendum to have mandatory effect, as well as the stated rationale of the government for this rule, namely that changing the voting system represents a "foundational change to Ontario's democracy," one that requires a "solid majority of Ontarians across the province."

The gist of my comments to follow will be that I can find no historical, legal or normative justifications to support either this rule or the rationalization offered by the government, and as such I'm appearing today to urge the committee to drop this rule and replace it with 50% plus one, period.

Before I begin, let me note that my research is directly relevant to this topic. My most recent major research project examined every instance of voting system reform in 18 western countries over a period of 150 years. I have also researched and published extensively on the past century and half of Canadian voting system reforms.

What that research can tell us is that apart from the recent PEI and BC referendums, no voting system change decision in Canada was ever subjected to a supermajority rule. In fact, the establishment of all Canadian federal and provincial voting systems was by a simple majority vote of the designers, and then all subsequent changes to provincial voting systems were by a simple majority vote of legislators. Those changes, which I've listed in my comments that I've forwarded to you, include 10 different voting system changes, including two different changes in Ontario.

When we turn to international experience, the same patterns hold. All western countries have seen the establishment of their voting systems or any changes in their voting systems handled either through a simple majority vote of Parliament or a simple majority vote in a referendum. Until recently, such referendums were few. We've got Switzerland in 1918 or France in 1946; both were dealt with by a simple majority. In recent cases, in Italy and New Zealand in the 1990s, they too were decided by a simple majority. A few western European countries have entrenched their voting systems in the constitution; thus, it would require a supermajority to change those voting systems now. However, in each case the decision to subject it to constitutional protection also involved a supermajority decision, which certainly wasn't the case in establishing Ontario's voting system originally.

Thus, historically and comparatively, I could find no precedents for the supermajority rules, as applied to voting systems, except where they were expressly constitutionalized, other than in the recent BC and PEI referendums.

In another issue, I think that legally the committee should be concerned about the potential charter implications of weighting votes differentially through the supermajority decision rule. The supermajority rule effectively inflates the voting power of those opposed to change while diluting the voting power of those seeking change. While the courts have been prepared to sanction some deviations from absolute equality of voting power as concerns the population size of electoral districts, they have in those instances insisted on clear and compelling rationales as to how such deviations would serve the public interest before they were prepared to go along with them.

I can see no such clear and compelling rationale for a deviation from voter equality in this case. Certainly the government comments justifying this decision, as they have appeared in government press releases and newspaper accounts, only vaguely refer to some foundational importance of the voting system. But if the voting system, as law, in Ontario has no superior standing to any other law, I can't see how that holds. It can be changed by a simple majority vote in the Legislature, as indeed it has been in the past.

I've got some other comments on potential problems in terms of how the courts might look upon this decision and what the results might be. Those are included in the comments I've forward to you.

Let me turn to the normative arguments that I think are implicit in the government's defence of this supermajority rule. The government has stated that a supermajority is required for this vote because changing the voting system represents a "foundational change to Ontario's democracy." The problem with such arguments, from a normative standpoint, is that the foundation being defended is a pre-democratic and elitist one. The voting system arrangements that were put in place in 1867 were not the product of public input. Indeed, Ontario in 1867 was not even a democracy, as the franchise at that time was so narrow that only the wealthiest of white men could vote. We had to wait until later for all adult white men to get the vote—about 1888—and of course women and other ethnic minorities came even later. Nor, I think, can the government rely on the Lockean notion that because people consent or have consented to use this ballot, they somehow approve of it. What we know from studying public opinion about voting systems is that the public doesn't really understand a great deal about how they work, or anything about it at all. Some might argue that the whole point of exercises like the Ontario citizens' assembly is just to open up that public discussion and debate and let people decide whether they really do want the status quo or something else. In such a situation, I think it's normatively indefensible to privilege one side of that discussion, as I think sections 4(a) and (b) of Bill 155 presently do.

Those are my comments.

The Chair: Thanks very much. We've a fair bit of time left. I'm assuming you're prepared to answer some questions, so we'll go to the government side. About three minutes each.

Mrs. Jeffrey: Sure, ask me to go first after such a thoughtful presentation. Thank you very much, Professor. I'm not a lawyer, and I'll profess that at the beginning. I'm going to ask you some pretty simple questions.

Do you have any affiliation with any other group—Fair Vote or any other group—or are you speaking independently?

Dr. Pilon: I'm speaking as a professor. I'm speaking from the basis of my research today; I'm not representing any other group.

Mrs. Jeffrey: Okay, thank you. Do you support the process that we've undertaken with the citizens' assembly? Do you have any problems with the process that has been undertaken so far?

Dr. Pilon: I think the process is excellent; it's very exciting. I think this is the way we should move forward in allowing citizens to have input on their own democratic institutions.

Mrs. Jeffrey: So why would you say—clearly, your main argument is with regard to the threshold. How do you see a threshold between 50% and 60% disenfranchising people and discouraging them from voting? You used the word "privileged." Why would a difference in the threshold make that difference?

Dr. Pilon: Well, I'm not speaking towards whether or not it will affect voter turnout. That's a separate question

entirely. But there's no denying that the threshold does privilege one side of the question and not the other. It inflates the value of the votes cast against any change and it dilutes the value of those—there's no disputing that; that's what the law is doing. So then the question is, why are we doing it? I haven't heard any good arguments about why these votes should be treated differently. I think the votes should be treated the same.

Mrs. Jeffrey: Do I have more time?

The Chair: Yes, you've got another minute.

Mrs. Jeffrey: In the course of your research, were you able to determine whether or not, in the case in Prince Edward Island—they had a stand-alone vote—how that influenced voter participation and turnout, rather than what we plan, which is to have it in concurrence with a provincial vote that's a fixed date?

Dr. Pilon: I think that in PEI there were a number of issues. The stand-alone vote was only one of them. Another was of course that there were very few voting locations open to voters and the government did not support a public education process that helped people to participate in that vote.

Having said that, I think that the recent “on” election suggests that off-term elections do not draw the same level of participation as an election in concert with the kind of mobilization that goes on for a general election. So I think having it with a general election is better for larger voter turnouts.

Mrs. Jeffrey: Thank you.

The Chair: Mr. Miller.

Mr. Miller: Thank you very much for your presentation. I had the pleasure to travel out to BC for just a couple of days to meet with people involved with the BC citizens' assembly. One of the questions we asked was, “Why did you pick a 60% threshold?” As I recall, the argument they gave was that in BC politics you tend to get—they didn't want the referendum vote, I guess, to be a vote to change the government or a reaction to the government of the day; they wanted it to be very clear.

Having said that, I think it was 57.7% of the population that supported change to the proposed system, which was a single transferable vote system, and you now have a dilemma, where more of the people supported change than voted against it. Can you tell us more about what's going on in BC at this time?

1140

Dr. Pilon: I think the situation in BC—of course it wasn't the citizens' assembly who decided on the decision rule, it was the government. The proposals by Gordon Gibson went into cabinet without a supermajority rule and came out of cabinet with the supermajority rule. Why that was the case, of course, is up for speculation. I'm not privy to those details. Of course, the idea that it would create clarity became a farce with the results itself when the government had, I think, 45% of the popular vote but had a majority of the seats, and then was going to pronounce on the validity of a vote that had gotten 57%. So this supermajority rule is taking you into a situation where the chance for a lack of clarity in the results

is quite high. In the case of judging what the voters wanted, again, I think the problem with this approach is that these systems were put in place with simple-majority rules. It does not make any sense to then insist that to remove them we require more than that. How is that in any way fair? I've made that argument here in BC. I would make that argument in Ontario. What's happening in BC now is that there will be another vote in 2009, though the same rules will apply again.

Mr. Miller: Any thoughts on public education once the citizens' assembly has come up with the choice of a possible change in the electoral system?

Dr. Pilon: Yes. I'm not sure the choices are merely between the government sending out a householder and funding the two different sides. I think if we look at New Zealand, which had a very successful public process, the key factor there was that their independent electoral commission was given considerable latitude to develop a number of ways of communicating with voters and creating deliberative spaces for voters to talk about this question. One of the things they really focused on was television and providing the resources to create television programs that were then repeated on public—

Technical difficulties.

The Chair: I'm told we may have lost the—you were down to nine more seconds anyway, Norm.

Mr. Miller: I think you're saying I can't get my next question.

The Chair: And it was such a profound question.

Mr. Prue: If you do get him back, I would appreciate my three minutes. You might not get him back so there's no sense in just sitting here.

The Chair: Is the committee agreed to that?

JUNE MACDONALD

The Chair: Is June Macdonald here? June, we'll hear from you. If the professor comes back on, could we stop your presentation for the three minutes and then—

Ms. June Macdonald: Yes, that's fine.

The Chair: Okay, please come forward, then. I appreciate your flexibility on that. That's very thoughtful of you.

Ms. Macdonald: I'd be interested myself to hear what Dennis has to say.

The Chair: We do appreciate your being here, and we'll start your 15 minutes now.

Ms. Macdonald: Thank you very much. I think you have a copy of my handout in front of you. I've timed it at 11 minutes so let's hope it works out that way.

I'm June Macdonald, a member of Women for Fair Voting, which is a subgroup of Fair Vote Canada, a member of Equal Voice, as well the Canadian Federation of University Women. But I am speaking here for myself. I have been actively working on this issue of changing our voting system for more than six years. As a result, this issue means a lot to me personally.

I got interested overall about 10 years ago when I attended an educational conference where Doris Ander-

son was speaking. She explained that she felt the reason there were more women in European legislatures, and therefore better policy for women, was due to widespread use of proportional representation. At that time I had no idea that we voted differently from most of the rest of the world. When the government announced a citizens' assembly process and a referendum, I was delighted: finally, an opportunity to improve the representation of women.

Fast-forward to October 24, 2006, the day that the supermajority for the threshold was announced: I was in Orillia giving a presentation on voting system change—

The Chair: Thank you. We'll come back to you.

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(continued)

The Chair: Professor, Mr. Prue has a couple of questions for you. Sorry for the disconnect there; I don't know what happened.

Mr. Prue: I hope you can hear my questions. What has happened in Ontario mirrors almost identically what happened in British Columbia: The all-party committee recommended 50% plus one; it went to cabinet and cabinet came out with 60%. Since then, I think literally almost every person who has spoken has spoken against what cabinet did. What kind of effect has that had on the support for cabinet since the election?

Dr. Pilon: Well, I can't speak to who or what support there is for cabinet, but I do—

Technical difficulties.

The Chair: Must be the weather, I'm sure.

JUNE MACDONALD

(continued)

The Chair: Ms. Macdonald, please continue. We got through the fast-forward and you were—

Ms. Macdonald: Yes. So that was the day the supermajority was announced. I was in Orillia giving a presentation on voting system reform. In reference to our upcoming referendum, one woman in the audience asked how other countries went about changing their systems. I said that in established democracies it is rare and that we have a lot to be thankful for, the farsighted view of our leaders here in Ontario for initiating this process and setting up the citizens' assembly. I said we were still waiting to hear the terms of the referendum, but I thought that it was doubtful that we'd go the route of the supermajority that was so disastrous in BC.

The next day, when I got home, I realized the supermajority had been announced just about the time I had said those words. I truly did not believe that a group of legislators who seemed to be so egalitarian would make such a decision so out of step with their goal of giving Ontarians a more democratic system. I looked at the vote and it appeared to me that substantial numbers of legislators from both major parties had voted for the bill on first reading.

So I wish to address the issue of the threshold specifically with my ideas surrounding what I think the impact of that will be—not that I think that what I say will have any effect, since I have already chatted with my MPP and I get the sense that you are fixed on this course. But, I recall a TV psychiatrist saying to Carmela, the wife of Tony Soprano, that she was enabling his criminal behaviour by remaining with him. The psychiatrist said flatly that now she can never say she wasn't told. I am not implying that the threshold is criminal but, through it, in my opinion, you may be enabling the survival of a dysfunctional system that no longer works for us and makes a mockery of our democracy. I suspect that after these hearings you will be unable to say that you were not told.

Nevertheless, I have decided in my advocacy work not to waste time discussing the threshold and to focus on educating women about what makes a good system for women so they can evaluate the assembly's recommendation critically. However, people keep bringing up the threshold issue spontaneously, and it is overwhelmingly negative.

I can understand the legislators' reasoning that re-vamping our voting system is a major change that will not easily be overturned, but I believe that most people do not see it in that light. They don't accept the reasoning of a unique change. They see the supermajority as a conflict of interest. They think that many of the legislators are seeing this as a way to keep the status quo if the assembly does recommend a change to a more proportional system and it gets a simple majority in a referendum. They are thinking, "Same old same old." Policy in the past has been enacted that has changed their lives substantially and there has been no way to undo many of these laws.

At least in New Zealand they had a chance to review their change of their voting system after a number of years. But for much of the current legislation that people object to that affects them, they are not given a similar second chance. They may never have got to vote for a given piece of legislation in the first place through their preferred party, since the true or popular majority are not making their decisions and their votes are wasted. For example, if you live in Toronto, you are basically voting Liberal, even if you prefer other parties. The tables are turned in other areas of the province, compliments of our voting system, not the people.

When you think that, since 1937, no government in Ontario has governed with the clear support of a majority, it is almost risible that a supermajority is being touted for the very change that would correct this democratic deficiency.

Regarding BC's outcome, I tend to agree with the pundits who say that BCers were voting for change, not necessarily for a particular system. There are strong advocates of STV versus MMP still, but they are united in their antipathy to the threshold and continue to carp about it even now. It makes one speculate that perhaps some voters were prompted into voting Yes in the refer-

endum by sheer annoyance with the threshold. In any case, you can be sure that the supermajority threshold is going to be a topic of some rancour whenever the referendum question is discussed. However, the government may have research to say that this is a low-profile issue, that the people do not care or just don't get it. You may be right, at least right now. But what a sad way for Ontario to go, and for you too, for you have in your hands the opportunity to give democracy in this province back to the people, even if there is no immediate political payback. I believe there will be positive payback for the parties to do this.

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Without a proportional system, it is highly unlikely that our Legislature will look like the population it serves. It is this attribute that I would like you to give pause in considering prior to placing your stamp on the super-threshold. Parties have promised to increase the numbers of women, but they have been stymied by the autonomy of the riding associations. Ontario is increasingly diverse, yet our Legislature looks mostly white.

Lijphart, a noted political scientist, stated in 1999 that women's representation in Parliament is an important measurement of democratic quality in its own right and can also serve as an indirect proxy of how well minorities are represented generally.

Two other researchers, Thomas and Wilcox, state, "Another reason it matters that women hold office concerns political stability. If all citizens are seen to have an equal opportunity to participate in the decisions that affect their lives, there is a greater likelihood that the polity will be stable and that citizens will have a reasonable degree of trust in and support for it."

Finally, Karen Bird says in 2005, "Some theorists argue that special measures to enhance the representation of women and minorities are justified by existing practices of representation in liberal democracies. For example, these practices already allow the representation of territorial interests, which are not all that different from the notion of group representation."

Without some kind of proportional system, it is unlikely that women and other underrepresented groups will be able to increase their representation appreciably, at least in our lifetimes under our present system, and at least with an exclusive single-member riding situation such as we have right now. That is why this electoral reform process is so important.

Some may suggest that quotas are the way to go, that we can fix the existing system with quotas. In our culture, there is a deep antipathy to any kind of preferential treatment for any group, save perhaps the electoral subsidy to men, who get nominated 80% of the time in our single-member ridings. But that is not seen as preferential treatment.

You could legislate quotas, as is commonly done in non-democratic and semi-democratic countries. However, party-initiated quotas are more associated with democratic countries. Party-initiated quotas appear to be very successful in many European countries, and once a

party brings them in, there is a tendency for others to follow suit in a contagion effect. However, quotas are more easily applied to proportional systems, especially ones with a component of longer lists. A lot of that is discussed with a lot of work by Matland. He's with the international society for democratic advice, and the reference is at the bottom of your sheet.

If you do institute quotas for women, what about our many minority groups? The only natural and viable solution is to provide good-sized lists in a proportional system so there is opportunity for all to take advantage, depending upon a party's philosophy. We do not know if the assembly will recommend such a system, if anything at all. But if the assembly does bring forward a fair system, you will be making history, finally giving women and minorities an opportunity for greater participation. Discounting a referendum outcome that is greater than 50% plus one yet less than 60% on a good model would be against all our best interests. People want change. Both men and women want to see more women in our Legislatures. Most of us do not think we can continue much longer with the poor representation of minorities.

I urge you to put aside the adversarial need to beat the other party and work together to divest more power to the electorate in the form of a more proportional system. Our system works well with two parties, but the population seems to want more than two parties representing them. Put aside the issue of the supermajority. Both major parties will wear this, not just the Liberals. Liberals: Please use the phoney majority the voting system conferred on you to give us a fair system.

Thank you very much for your attention.

The Chair: We'll have about a minute each for questions, beginning with the government side.

Mrs. Jeffrey: Thank you, Ms. Macdonald. I'm sorry for the interruptions. You had a very interesting presentation.

It's important to remember that these hearings are discussions of Bill 155 and about the process, and I wanted to thank you for the work that you've been doing trying to educate the public, because it's an ongoing process. You can't do it just once; you have to keep doing it, and I think you spoke quite extensively about studying the process and the education campaign that took place in BC. We hope to learn and improve on that. What would your recommendation be to improve public awareness and knowledge of the referendum, should it occur?

Ms. Macdonald: I agree with the comment that Dennis made about the process they used in New Zealand. It was placed in the hands of an independent commission, and I believe it was adequately funded. My preference would be that there would be an independent body to look after that sort of thing and that there would be enough funding to make it a good-quality educational process.

Mrs. Jeffrey: Thank you.

The Chair: Mr. Miller.

Mr. Miller: Thank you very much for your presentation. I certainly gather you're against the 60% thresh-

old and you like some of the things that have happened in New Zealand. There they had a two-part referendum, two separate referendums, I believe, in the process they used.

I guess my question has to do with how changing our electoral system will achieve the goal of more women in politics. Certainly I think that parties have a big role to play in that. In our party, the last two elected candidates we've had in recent by-elections have been women, and in the current by-elections going on—there are three by-elections—two of our three candidates are from what I would call a minority group, and the other two are women. I would say there is a large role of the party deciding, "We want more women involved in our party." It's a definite decision we've made, and I think there is a role, and it can be achieved.

My question is, is there a certain system that you think results in more women being elected? That wasn't what we found in the select committee on electoral reform, so I'm wondering if there's a certain system that you would recommend.

Ms. Macdonald: I'm surprised at that, because all the evidence throughout the world is that, generally speaking, all things taken into consideration—culture and the rest of it—list PR systems statistically do show better representation of women. I agree with you that it's a complex topic, but if you look at all the parameters and even the comparative data, it shows that there are more women in a list PR system.

Now, I think that might be impractical for Ontario. My personal feeling is that a mixed-member system would probably be the best compromise, and that's not quite as good for women, but I think there is potential there for change. I think Mr. Prue pointed out that in Scotland and Wales, their new MMP system, mixed-member system—Scotland and Wales have between 40% and 50% women. There are a number of complexities to that system to get those numbers, but overall, changing the system had an impact.

The Chair: Mr. Prue.

Mr. Prue: Thank you very much, and you are right: The change in the system has a huge impact when it comes to the election of women.

You've been very strong on the 60%, but I think what you've done best is to tie in the potential change to something other than first-member-past-the-post to the 60%.

You write, "Without a proportional voting system, it is highly unlikely that our Legislature will look like the population it serves." Do you expect that the citizens' assembly will come up with a system which will allow for greater diversity within the Legislature?

Ms. Macdonald: Well, we can only hope for that. We have no idea which way they're leaning. I've sat in on a lot of the presentations. They've heard some of this information, and I'm hoping that whatever they come up with will be taking women and visible minorities into account and will not just depend on quotas to do that, but will actually use the voting system itself to do it in a natural sort of way.

The Chair: Very good. Thank you. Thank you again for being so patient with the interruption.

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(continued)

The Chair: We have the disappearing professor back. We'll go back to Mr. Prue. Sorry again, Professor, for that.

Mr. Prue, you were in the middle of your one question that we have time for.

Mr. Prue: Well, I asked the question and you only uttered two words that were legible. So please, you've had a long time to think about it. If you could just answer it, if you can.

Dr. Pilon: I can't speak to the results or how people see the cabinet in Ontario. I haven't been in Ontario for a few months now. But I can say that I think the legitimacy of this process is in danger. I think the government needs to be clear: If they think this is an important thing, they've got to come up with some clear and compelling arguments in favour of it. I have studied this process, historically and comparatively, quite extensively. I can't find any compelling arguments. I can find many compelling arguments against it. This decision is one that people have not had a chance to make before. The system was introduced by all the usual methods. No supermajority rule was required. It's kind of ironic that people who can get elected with much less than a majority are insisting not merely on a majority for this decision, but a supermajority. The potential for this issue not to go away I think is very high. A simple majority; let's get this done; let's find out what Ontarians think, and if they really like the current system, they'll say so in a vote. And if they don't, they'll say so. That will be a clear result, with 50% plus one.

Mr. Prue: You have said, I believe, as well as others, that there's a considerable amount of public cynicism around this process. I want to be specific, though. Is there cynicism amongst the 150 or so members who have served on the BC citizens' panel—cynicism about the 60%, what happened with their recommendation?

Technical difficulties.

Mr. Prue: It's aborted again.

The Chair: His time was up, too.

Mr. Prue: If this is Rogers, tell them we're not impressed.

The Chair: Maybe when they switch the channel it will—

Interjection.

The Chair: We've got to build in an extra 15 minutes any time we teleconference.

The Clerk of the Committee (Ms. Tonia Grannum): I think he's coming back.

The Chair: We'll give him 30 seconds to come back and then we'll take Mr. Prue's good advice and proceed on.

You managed to sneak in an extra question there, anyway, so that's fine.

Mr. Prue: How did I? I thought I had three minutes.

The Chair: Well, I guess when you add it all up—

Mr. Prue: I had a stopwatch. I'll guarantee you there wasn't three minutes' worth of time there.

The Chair: You and he had three minutes together. That was the problem.

Is he coming back, Madam Clerk? He's mute at the far end.

Let's let him know that we're not going to continue this, okay? Thank him very much for his legendary efforts to get through, and Mr. Prue, for your patience.

Do we have Huleta Benjamin here? How about Susan Smith?

SHARON HOWARTH

KAREN BUCK

The Chair: Sharon Howarth, thank you for coming and being with us today. I understand you had a bit of a drive in.

Ms. Sharon Howarth: No, that wasn't me. I'm from Toronto.

The Chair: Oh, okay; very good. Welcome anyway. You have 15 minutes to share your views. If there's any time left over, we will share that equitably.

Ms. Howarth: Thank you. I'm most grateful that the Liberal government has had the good sense to approve the citizens' assembly to look into election reform, electoral reform. I'm confident that with the education and the public consultation that was undergone by my Ontario neighbours who make up the assembly, they will recommend that the electoral system be changed to proportional representation and make the right choice for the type of system for Ontario.

To me it's blatantly obvious that the voters are disillusioned and have lost confidence in the present system of voting. This has manifested itself in voter turnout being the lowest it has ever been. It is unreasonable to believe that jaded eligible voters who have not exercised their right for numerous elections, and some have never even voted at all, will instantly become believers and invade the polling stations.

In order for the citizens' assembly's choice of voting system to be binding, Bill 155 recommends that a threshold of 60% of referendum ballots be agreed on. Political candidates have gained a seat with as low as 30% of the vote. Since members have found that they were perfectly comfortable to accept a seat with such a low percentage, it would only be logical and reasonable to have the threshold for the referendum ballot set at a 50%-plus-one simple majority.

Of the low percentage of eligible voters who at present do vote, that percentage will still have to be brought up to that 50%-plus-one mark. To put the effort, time and money to set up and administer the citizens' assembly, arrange for a referendum and all that's associated with that, it would be shameful to have the referendum defeated with a 57% vote, as occurred in the BC referendum. So I urge you to maintain the image of fairness

and recommend that a threshold of 50%-plus-one simple majority as being acceptable and binding.

When I was telling neighbours that I had asked for a seat to be able to speak and come here, they said, "We'll come with you." I said, "Okay. I'm just doing something very short." Karen was one of these neighbours and the other neighbour was Adriana, but her children were sick today. Karen might want to say something as well.

Ms. Karen Buck: I'm just here to say that I'm another voter. I do vote in elections and I am very supportive of a new proportional representation of some kind happening in Ontario. I also am very supportive of a 50%-plus-one simple majority being the threshold, not what has been put into Bill 155. Thank you.

The Chair: Can we have your full name for the record, please?

Ms. Buck: Yes, it's Karen Buck.

The Chair: "The buck stops here."

Ms. Buck: Yes, exactly. If we're going to spend the bucks on the citizens' assembly, as Sharon said, let's make it count.

The Chair: Okay, thank you. Well, we have about 10 minutes. Mr. Prue, since we gave you such a rough time the last time, we'll start with you. You can have the first three.

Mr. Prue: Thank you very much, and welcome to both of you coming. Karen, I haven't seen you for a while. Karen is very involved in all things to do with the environment, and here you are branching out a little.

The all-party committee recommended 50% plus one, but somewhere in that black box we call cabinet, they went in there and changed it to 60%. Have you read any of the reasons they gave for changing it to 60% and, if so, do you agree with the rationale?

Ms. Buck: Actually, I haven't read any of the reasons why they changed it to 60%. I didn't know that.

Mr. Prue: The reason is, they think it's an important vote so it should have 60%.

Ms. Buck: At one point a government in Ontario thought it was important to give us a vote on a referendum for amalgamation in Toronto and we hit 80% and that was denied. I think that this is even more important. We might hit the 60%—

The Chair: Just for the record, which government was that that made that decision?

Interjection.

The Chair: No, I don't know. I honestly don't know.

Ms. Buck: I think it was under Harris, when all amalgamations happened.

Interjection.

The Chair: No, that's good for you, right? Sorry, Michael.

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Mr. Prue: Go ahead. You had something you wanted to say.

Ms. Howarth: Yes, I have a comment on that. If they think that this is so extremely important, so is voting every four years. That's extremely important. You can ask voters, "Do you know why you're voting for this

party or this person?" "My father used to do it," or whatever. This is just as important. Again, I'll say that members accept the 30% wins that they get elected on, so 50% is more than reasonable.

Mr. Prue: Thank you.

The Chair: Okay, thank you. To the government side.

Mrs. Jeffrey: Thank you for being here today. We appreciate some average voters being here. Do you have any affiliation with any other groups—Fair Vote or any other group?

Ms. Howarth: No.

Mrs. Jeffrey: You're just here independently. That's good. Thank you.

I think we agree with you and we are grateful that so many people volunteer to be a part of the citizens' assembly because we do, contrary to public opinion, want people to come out and be informed voters. I think that makes better members of provincial Parliament, the smarter the voter is. I think that Mr. Prue has already recognized that—and having someone here who has experience with it and who has done the homework. So we appreciate that.

You spoke a little bit about the threshold, but I guess the piece that I've been kind of focusing on this morning has been on public education. What kinds of recommendations would you have to improve the education? If the voter is cynical and jaded and not open to the idea of voting at all, how would you increase the ability for us to get people out during an election to not only vote for their candidate, but also to consider a fairly complex idea possibly, should the citizens' assembly recommend it? Do you have any practical suggestions on how we can improve that?

Ms. Howarth: The easiest way to get the point across is tone. "This is all you have to do," instead of, "This is what you have to do and these are the reasons why"—just one statement. If they ask for more information, then certainly have it set out that the tone is going to be up, because it is simple, whether it was STV—"You just vote 1, 2, 3, 4, 5. Now you vote for one; now you can vote for as many as five or still down to one." So keep it light.

Ms. Buck: Don't have a butterfly ballot. I guess I would say that you just try to encourage people to come out and vote. They have another opportunity at the polls this time, and that is to change the voting system. According to the neighbours or the citizens' assembly, there is a good reason to change the voting system so that it becomes more meaningful for every voter now to vote. They have choices that will make it a more meaningful vote than in the past, which was first-past-the-post. For maybe thousands of voters who are disappointed because their vote didn't count at all, here's an opportunity where your vote gets to count for something other than just first-past-the-post.

Mrs. Jeffrey: Can I just get some clarification as to a butterfly vote?

Ms. Buck: That was the one in Florida that was so complicated that everybody got it wrong.

The Chair: Where is Chad when we need him, right?

Ms. Howarth: I have one other thing to add: pushing the idea that it was our neighbour Ontarians who have recommended this system—our neighbours. Sorry, there is a disillusionment in the government, so don't say it was the government's idea. The government allowed it to happen, so thank you so much. But it was our neighbour Ontarians, people like you and I, who worked so hard in the education. They went and started this process back in September, and it was they who recommended it: "Let's go for it."

The Chair: Thank you. Mr. Miller.

Mr. Miller: Thank you very much for your presentation this morning. A couple of things: first of all, on the 60% threshold requirement. We've had some presenters this morning say that the process we're going through is an elegant ruse, that it's a charade. Why do you think the government chose 60% versus 50% plus one?

Ms. Howarth: You're asking me why the government chose?

Mr. Miller: Yes.

Ms. Howarth: Just to be difficult.

Mr. Miller: So do you think they don't really want to see change happen when they're setting such a high threshold?

Ms. Howarth: It's "Look, we're letting it happen, but we've stuck all these conditions in there."

Mr. Miller: And as you said, they're spending a lot of money on it.

Ms. Howarth: Oh, lots of money. It's just kind of making it happen, sort of.

Mr. Miller: You're very politically involved and it's great you came in this morning. It's interesting to note that this committee hearing was fairly well advertised and yet there were only 11 presenters. We initially had three days set aside for public hearings and only 11 presenters in the whole country—at least one was from BC—came forward.

I, like you, always vote. I don't think I've ever missed any election and I'm amazed that people aren't more involved in the process. So I guess my question is, what do you think has to happen to get more people involved? My thought would be that a lot more has to happen in the schools from a very young age. Any thoughts on that?

Ms. Howarth: Oh yes, of course, in the schools and the mock voting system. I have voted, but, boy, sometimes I find it really hard to go. I've heard things that make it compulsory to vote, but people don't know what they're voting for. If they don't think it's fair and it's going to make a difference, then I can see why they don't vote, because I've certainly thought, "Why am I doing this?"

Ms. Buck: Just to fill a gap while she might be thinking of something else, I would say that they do hold a lot of mock voting in the school system. I think it would be very interesting, and it would have been interesting before the referendum was actually put it to the polls this time, to have mock voting to see what the difference was with different systems.

When I did go to the citizens' assembly, to one of their evenings of information, I was disappointed that they weren't presenting and allowing us to do a mock vote. I thought that might spur a lot of people in the audience to understand more about the advantages of a proportional type of representation. This may be just the beginning and there may be a lot of refinements that you, as political people, will want to see in the system. It could be just a beginning, and I think that's important too.

In British Columbia, where they had a similar program and their threshold was high and they didn't make it, I think it's a shame to have gone through this process and not have it actually initiated in the next vote. So I think it is important to just make it a simple majority and make sure that it does get implemented, just so that we can see what the change is.

The Chair: Thank you very much. Thanks for popping in from the neighbourhood to share this with us. We appreciate it.

Ms. Howarth: Thank you so much.

The Chair: Madam Clerk, are either of the other two presenters presently here?

The Clerk of the Committee: No.

The Chair: Apparently they're travelling in from out of town with some snow difficulties. What would the committee have us do?

Mr. Prue: I think the logical thing would be to break and come back at 1 o'clock, and if they're not here at 1, we'll know how to proceed.

Mrs. Jeffrey: I'm in agreement.

The Chair: We'll recess and come back at 1 o'clock. Is everybody in agreement?

Interjection.

The Chair: That gives them an extra 45 minutes. Agreed? We'll do that?

Interjection.

The Chair: Ms. Mossop and you as well came down through the whiteout. So we'll do that and we'll reconvene at 1 o'clock and if the presenters are here we'll hear from them, and if not, we will adjourn. We're recessed.

The committee recessed from 1219 to 1301.

SUSAN SMITH

The Chair: Okay, let's get started. We'll hear from Susan Smith, who's here. Welcome. Susan, we understand you had quite an experience coming in this morning.

Ms. Susan Smith: Thank you so very, very much for—

The Chair: We appreciate you making this special effort to be with us. As you know, we adjourned our hearings specifically so that we could see you. That's how important it is to us. You have 15 minutes to share with us.

Ms. Smith: Great; thank you very much. I'll introduce my friend Cortwright Acham, who accompanied me today just to make sure that we got here safely to be able to present to the committee.

The Chair: Thanks for getting both of you here safely.

Mr. Cortwright Acham: Thank you.

Ms. Smith: We both take electoral politics equally seriously.

The Chair: I should note, by the way, that member John Milloy also drove through the snow today, just for the record.

Ms. Smith: Well done.

Mr. John Milloy (Kitchener Centre): Thank you, Mr. Chair.

The Chair: Go ahead, Susan.

Ms. Smith: My points are brief. The genesis of them, of course, was looking at our copy of Bill 155, the first reading, dated from October, that was made available to me a couple of weeks ago by my MPP's office when I went in to pick up a copy.

I need to tell you, by way of explanation, I usually read documents back to front, reading the appendices first—a bit more of a struggle going through it in the French section. There were things that tweaked my interest reading the appendix because they struck me as going perhaps a little bit sideways from the more straightforward presentation of the bill.

First, to get to my points, I suggest that the ballots not be machine-tabulated. Probably since 1974 or 1976 I've worked as an election official in most elections and in every circumstance I would trust peers who are voters, citizens, to scrutineer ballots and I have every hesitation and concern about the process of the machine counting of ballots. I find it most unnecessary. I just couldn't express a more fundamental value of my participation in democratic voting than the security I feel knowing that the voter who is the last person to get into her poll at the end of the day, the last person at the very end of the final polling day to cast her vote, is willing to stay in the polling place and with deep curiosity or impartiality view as an extra set of eyes the counting of the ballots.

My personal experience has been that election officials, tired at the end of a long day, can make a declaration, a mistake, and it's very reassuring that a chorus of voices say, "No; it goes on that pile over there." That's the way the process, in my view, should work. There's a lot of validity and just plain accuracy to that, and that would be the most fundamental point. I'm not making my comments informed by anything we see in any political jurisdiction other than in Ontario. It's exclusively an Ontario election experience that I own.

My second point is, whether within or outside of any discussion on a referendum or the system of our election of people to Ontario's Legislature, my strongest suggestion is that the political party affiliation be printed on the ballot. Any concept of proportionality would have to be begged as to what proportions we're measuring. If not affiliation, then what? I could well represent vertically challenged people in the Legislature, but that's not a characteristic, a quality or a particular area in need of representation.

I also fundamentally suggest that the names on the ballot appear randomly and not be sorted alphabetically. My rationale for that is that Wanda Wildebeest should have every opportunity equally with Amanda Aardvark. I can't think of any reason why names need to be sorted alphabetically other than that's how it was done before.

That will certainly bring you to my fourth point: presenting the No option equally with the Yes option. No being presented first on the ballot in terms of the field in equal numbers with a Yes option should be fundamental to meeting the clear, concise and, in particular, impartial aspect of how the question is presented. I'm suggesting that that order of presentation of the question's response be a significant part of impartiality, so specific to the number of ballots provided for every single individual polling division within every riding across the province.

As I read it, my understanding is that there is a requirement for certain records to be retained for six years. Reading the particular section in the bill on repeal, it's not clear to me what happens to the requirement to retain the records. Perhaps I'm looking at that most with respect to aspects of retaining records for ascertaining media compliance with certain areas that will be open to the chief election official to determine periods of blackouts. If you repeal the act, what happens to the six-year period?

Point 6 is with respect to advertising. I am suggesting that only impartial informational content would be presented to the public on TV and radio, that there's no need at all for any aspect of promoting a particular result. The longer people have an opportunity to have access to impartial informational content, the longer they are likely to be able to deliberate the question, manipulate it, think about it, decide how much more information they want to get, and come to a final conclusion, although that will only be represented when a box is checked with either a No or a Yes response.

Briefly, there are aspects of the 1998 act—I see from the other presentations you've had today that I'm obviously not the only person concerned with aspects of that. As I went back and informed myself on that particular act and the amendments to it dating back to 1998, I hadn't really been given a lot of pause to rethink results of election campaigns conducted in this province since that bill. But now that I've looked at it—I'm a democrat. Living in this province where I've always voted, where I always will vote, there are manipulations in that act that disturb me deeply; to put it bluntly, that my grandparents never would have thought that the voting process in this province could get that twiggged and manipulated.

It's not fair to ask this committee for a justification of that bill. But not to put too fine a point on it, that bill is really now the genesis of how I would have to look at any aspect of what follows, other than to say that I began with the point, before considering proportional representation, which you really haven't heard me address yet, that I had to think about what really needs to be fixed on the Ontario ballot before that next iteration happens. So I

suggest that my six primary points stand as my input into that.

1310

The Chair: Very good. You've raised some new things for us. I appreciate that. We have about six and a half minutes. We'll begin with a couple of minutes from Mr. Prue.

Mr. Prue: First, I'd like to go to point number six, where you say that there "should be no advertising 'to promote a particular result in the referendum.'" I think we all agree with that, but then you go on to say, "Impartial informational content only should be presented to the public on TV and radio." Are you excluding print media?

Ms. Smith: No, I'm not excluding print media.

Mr. Prue: Okay, so what you're saying is, any form of media but it has to be impartial.

Ms. Smith: Exclusively informational, to the extent that what's in the bill can be put in what's called boilerplate form, whatever, and made as accessible as possible. I am of the opinion that a timeline—not a contracted but an expanded timeline—of information is what gives people more access to information, not less.

Mr. Prue: We have not held a referendum in this province for a long time. I think the last one was in 1923.

Mrs. Jeffrey: In 1927.

Mr. Prue: In 1927. So I don't think people would be that familiar with voting in a referendum. I'm just a little worried about your suggestion about putting the Yes and No randomly so that on some ballots the No might be on top and on some the Yes on top, because clearly the instructions will have to be fairly simple. If they go out and say that you have a choice—Yes or No, No or Yes, or however—I wouldn't want to see people confused. How strongly are you wedded to this idea of changing them around?

Ms. Smith: I'm absolutely wedded to it because, as I understand the material so far, presentation in both French and English is required for all information as well. I don't think that's going to complicate the fields of vision for anybody trying to make their way through the ballot paper that poses the question. I'm absolutely wedded to the concept of the No being presented with equal frequency first, if you assume most people are reading top to bottom and left to right. To me, it's absolutely critical that it be presented that way. Moreover, if the ballots are serialized and are in packets of either 25 or 50 ballots per booklet, I would expect each individual polling place to get a booklet of 25 with the No and Yes presented first in equal numbers. I appreciate how challenging this is. I'm not trying to build in a cost, but I'm guessing that the actual printing of it may get a bit more complex if you have numbers that in serial order are, first, 0 to 25, No; 25 to 50, Yes; 51 to 75, No; and so on—if I've explained that properly.

I certainly expect the opportunity to randomize the No response first as frequently as the Yes as properly as possible, because when you're measuring proportionality and when you're measuring anything voted, it would

make sense to randomize the first response all the way around. That's how Gallup does it. With any standardized 001 polling that's done, whether you call it an alpha sort or a numerical sort, you are always preparing your data so that you randomize the very first question you start at when you go through a menu. That's considered very elementary.

The Chair: To the government side.

Mrs. Jeffrey: Thank you, Ms. Smith, for being here today. We appreciate that you came through sleet, snow and storm to be here. It does help us to have you here.

Actually, you've provided a very interesting set of suggestions, and I had very similar questions to Mr. Prue's. I had never thought about the ordering as being an important component of this bill and the referendum. I had the same question, and I wanted to delve a little more into the—oh, before I begin, so I am consistent, do you have any affiliation with any other group, Fair Vote or anything?

Ms. Smith: No, I haven't joined any group.

Mrs. Jeffrey: Okay. Your suggestion that there be no advertising on the mass media: At the end of the day, I think we've heard from everybody today that the education of Ontarians is hugely important to their participation. If they are cynical and they are jaded about the election process, if we don't provide them with enough education to understand what they are voting about—how do you do that without mass media?

Ms. Smith: I guess the thing is that I define advertising as somebody paying for it as a third party. I should be clear: I mean no third party paid advertising. If there are Ontario government contracts that want to try to use primarily TVO to put information out there, or if you can contract with the CBC, newsprint media, newspapers—I'm personally not an Internet kind of person, but lots of people are. In terms of informational content, these days, that tends to percolate up from whatever people are reading and processing and informing themselves about. So that's why I consider impartial informational content to be able to appear to be whatever the ads put out by the Ontario government will look like.

Mrs. Jeffrey: Could I ask one last quick question? Do you support the process that the citizens' assembly is undertaking at the moment?

Ms. Smith: I think it's really interesting, yeah. I wasn't able to attend the meeting they held in London. I think what they are moving through is quite interesting. It certainly appears, based on the advertising, to have been very accessible to people, so I have no quibble with that.

Parenthetically I would say that I have always had a quibble with the political party affiliation not appearing on the Ontario ballot. It's just us and PEI that don't do it. As I get older, I continuously have a quibble with an alpha sort of choices, particularly on an election ballot. There's no rationale for it. Once candidates are duly registered and the registrations close off, there's no reason a returning officer can't pull names out of a hat to choose what order they're in. I quite sincerely mean, we have no way of knowing that Anna Aardvark has more

validity being an elected person than Wilma Wildebeest, but everything statistical will show that the first choice presented will receive a proportion of responses out of—and you can use different methodology to twig that out of your data.

The Chair: Okay, we need to move on to Mr. Miller, please.

Mr. Miller: Thank you for your presentation this afternoon. I hope you have a safe trip home and that there aren't too many blizzards to go through.

On your suggestion about education, I'm wondering how we educate the general public. We have heard from a lot of different people how education is important. You stated that a longer timeline is the best way to be able to get people educated. So in this scenario where the citizens' assembly makes a recommendation—and let's say they go like BC and they pick a fairly complicated system like the single transferable vote system—we have a from May to October to educate the general public on that new suggested system versus the first-past-the-post system that we currently have. How would you achieve that, then? You obviously want restrictions on paid advertising. How would you make millions of people out there aware?

Ms. Smith: Well, with respect, I'd say there's a window, and it's probably now and maybe two months from now, maybe the next eight weeks, where people have a bit of time to spend paying attention. I think after the May 24 weekend—if you had a fixed election date in Ontario, I'd suggest that it should be maybe by the beginning of June. There are just more units of light in the day. We're in a northern hemisphere, and people have more minutes in their day to get their stuff done. So, if you were to start putting print material out to give people that option, I think you are in a time frame where people will take the opportunity—

Mr. Miller: You were suggesting earlier that the citizens' assembly—I think it's mid-May, I believe—is going to make a recommendation. They could recommend staying with the current system; I doubt that they will. They'll likely recommend a new system. So basically mid-May until October 4 is the time frame.

Ms. Smith: But do you know what? I've met people—single parents—who have really busy lives, and there could be a by-election on in another riding in the municipality they live in, and literally I've come across people whose response is, "Oh, my God, today is the final polling day. I haven't gone to vote yet. I didn't remember there was an election." Well, you don't live in that riding, so you haven't received any literature at your door or phone calls, and you don't see signs.

I think people's response to participate can be very, very strong, and I think people will muddle through. In terms of if the choice is single transferable vote or multi-member proportionality, let's err on the side of not continuing to accommodate the privilege of members of this august assembly, because frankly, that is how the system is set up. There's a lot of privilege that goes to 103 members, to 103 people in the province of Ontario—

tremendous responsibility, but also tremendous privilege. I don't have a quibble with the system cracking itself wide open and getting a lot more input. I'm not worried. I don't lie awake at night worrying about what process the citizens' assembly is going to come up with. I know I'm going to show up to vote. I probably won't wait until the final polling day; I probably want to get the job done, and I'll vote in an advance poll. That's my take on it.

The Chair: Thank you all. Thanks, members of the committee. Again, I appreciate your coming in and braving it.

Ms. Smith: Thank you.

The Chair: Is Huleta Benjamin here?

The Clerk of the Committee: No, she won't be here.

The Chair: She won't be here. Other than to remind the committee members that amendments to the bill are due by noon on February 9, the committee will reconvene, Madam Clerk, on the 13th for clause-by-clause. Is that correct?

The Clerk of the Committee: That's correct.

The Chair: The committee stands adjourned.

The committee adjourned at 1322.

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Electoral System
Referendum Act, 2007

Comité permanent de l'Assemblée législative

Loi de 2007 sur le référendum
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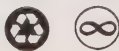
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THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Tuesday 13 February 2007

Mardi 13 février 2007

*The committee met at 0935 in room 151.*ELECTORAL SYSTEM
REFERENDUM ACT, 2007LOI DE 2007 SUR LE RÉFÉRENDUM
RELATIF AU SYSTÈME ÉLECTORAL

Consideration of Bill 155, An Act to provide for a referendum on Ontario's electoral system / Projet de loi 155, Loi prévoyant un référendum sur le système électoral de l'Ontario.

The Chair (Mr. Ted McMeekin): Members of the committee, we're here to do clause-by-clause for Bill 155. The clerk will guide me through this, as this is my first stint at this very important and detailed process. I think we go section by section, Madam Clerk.

There are no amendments noted on section 1, so any comments or questions on section 1? None. Shall section 1 be carried? Carried.

On section 2, are there any comments or questions? All those—

Interjection.

The Chair: Carried. Okay.

On section 3, there is an amendment noted 1. Mr. Prue.

Mr. Michael Prue (Beaches–East York): I move that subsection 3(1) of the bill be struck out and the following substituted:

“Question

“(1) The wording of the referendum question, in both English and French, shall be established by an order of the Lieutenant Governor in Council made on the address of the assembly after consultation with the Chair of the select committee on electoral reform.”

By way of explanation, this is what happened in British Columbia: In British Columbia they got all-party agreement, the question was debated in the Legislature, and then the Lieutenant Governor in Council, i.e. the cabinet, brought out the question. The question was agreed to by the citizens' committee and it was put on the ballot.

The way it is now is hardly democratic. It is the decision of one person. It is the decision of the minister through the Lieutenant Governor in Council. There is no debate, there is no tie-in with the opposition parties, there is no tie-in with the citizens' committee. I fail to see how it could possibly get the kind of broad consensus or

approval that is necessary for it to go forward. Just one party or one group of people could come forward and say, “We don't think the question is fair,” and that will throw a monkey wrench into it from the beginning. So I'm merely asking that it be done in a way that's democratic, open and where everyone can buy into what the question is.

The Chair: As I understand it, and I'm informed by the clerk, this motion is out of order, as currently the select committee on electoral reform does not exist.

Mr. Prue: Does not exist?

The Chair: Yes.

Mr. Norman W. Sterling (Lanark–Carleton): Could I suggest an amendment to the amendment? I was going to ask a question about the consultation with the Chair of the select committee. I would support the motion if it ended after the word “assembly” and struck out “after consultation....”

Mr. Prue: That's fine.

Mr. Sterling: So do you want to—

Mr. Prue: The consultation with the Chair was simply to keep everybody in the loop. But if it does not exist—Mr. Chair, that would be you, and if you don't care, I don't care—I'd be happy to strike out those words and have it end after “assembly.”

The Chair: That's in order.

Mr. Sterling: Could I just speak to that?

The Chair: Yes, please. Mr. Sterling.

Mr. Sterling: This has been a concern of mine as we have proceeded along with all of these democratic reform initiatives; that is, that in order to have a truly democratic reform within a democratic institution, it's not only the right of the majority party, but it's the right of the Parliament of Ontario to be driving the whole issue.

I think, quite frankly, that the select committee on parliamentary reform was really established after I and others from the opposition made our concerns known and put them forward, and I think the government did the right thing in striking that committee. But the problem here, and I think Mr. Prue has put it well, is that if the wording, as it is now in the bill, is set by the cabinet of Ontario—which is what the words mean when you talk about “order of the Lieutenant Governor.” That is really “what the cabinet wishes,” because the Lieutenant Governor follows whatever the cabinet says. I really think that it's not driven in the true spirit of what democratic reform should be, so therefore I will be supporting Mr.

Prue's motion. I think it's the right thing to do. I would say that you could have a fairly succinct debate in the Legislature over the wording of the motion. In fact, the government should listen to what members of the Legislature have to say about it. They may find it helpful in terms of making it clear for the public, and hopefully they would gain, in terms of the posing of the question, unanimity in the Legislature before it was put on the ballot.

0940

The Chair: Parliamentary assistant?

Mrs. Linda Jeffrey (Brampton Centre): I've heard the debate this morning and I want to remind people what happened in British Columbia in 2005. At that time, the Lieutenant Governor set the referendum question recommended to him by cabinet. The advisory role of the citizens' assembly was not prescribed by statute. From the very beginning of this process, we felt the content of the question should be based on the work done by the citizens' assembly. If a referendum is held, then this legislation ensures that the question will be presented in a manner that's clear, concise and impartial.

The Ontario citizens' assembly was given the opportunity to consult with former members of the select committee on electoral reform. In fact, the former Chair of the select committee, Ms. Di Cocco, is in cabinet now, so the views of the select committee will be represented when the Lieutenant Governor receives the advice about how the question should read. We will not be supporting the amendment.

Mr. Prue: I have a question. This was the subject of a debate in the Legislature of British Columbia. Why do you not want a debate in the Legislature of Ontario?

The Chair: Who's the question directed to?

Mr. Prue: It's directed to the parliamentary assistant. She just made the statement, so I'm very curious as to why, if it's good enough to help the democratic referendum there and all parties signed into it, and it was only a one-day debate, a similar one-day debate wouldn't be good for the referendum and parliamentary democracy in Ontario.

The Chair: You don't have to answer that, but if you'd like to, go.

Mrs. Jeffrey: I would argue that there has been debate: There has been debate about this issue in the House, there's been debate out in Ontario—

Mr. Prue: About the question.

Mrs. Jeffrey: The citizens' assembly has travelled across this province and provided opportunities for the public to debate the issue of electoral reform, the question and every other component of electoral reform, so I would argue that there has been debate.

The Chair: Mr. Sterling.

Mr. Sterling: But you see, part of the problem here—and I guess Mrs. Jeffrey is carrying it for the minister, so therefore we're entitled to ask questions of her as a representative of the minister on this particular issue. But my concern on this is one of a long-standing understanding of how this process and this institution changes

from time to time. When we have changed the standing orders or when we have appointed legislative officers of the Legislature of Ontario, we have sought to get unanimity of all parties and all members of the Legislature. It's not always achievable, but we try to do that.

The parliamentary assistant is saying, "The statute says the language shall be clear, it shall reflect what the citizens' committee is putting forward." Well, you know, language is language, and language can perhaps be clear to one person but very unclear to someone else. So I really don't understand the reluctance of the government, a majority government—a heavy majority government—which should, I think, because of its numbers actually be more careful about how they're going into this rather than less careful about it, and not be as prescriptive as they are about the process and their involvement in it.

I very strongly support Mr. Prue's amendment, but I've got to say I'm not surprised by the government's reaction, because they have been very heavy-handed with regard to how this has gone forward in the past. So it quite frankly doesn't surprise me that we have the parliamentary assistant walking in here carrying the orders of cabinet again and not really considering this in what I consider a fair light.

Mr. Prue: On a recorded vote, please.

The Chair: We'll put the vote on the amendment to the motion and, if the amendment carries, then the motion, as amended.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The motion is defeated.

Would someone move that we carry section 3? So moved. All those in favour? Opposed? It's carried.

We'll move to page 2, NDP amendment to section 3.1.

Mr. Prue: I move that the bill be amended by adding the following section:

"Public awareness campaign

"3.1 The Chief Election Officer shall conduct a public awareness campaign to ensure that voters throughout Ontario are informed about the referendum and the referendum question."

By way of explanation, again we go back to British Columbia. When the all-party select committee went to British Columbia and questioned people on the committee—Gordon Campbell, professors, legal people, lawyers—they felt that the chief failure of the referendum and the referendum question was that it was not well enough understood by ordinary people.

A flyer went out from the Chief Election Officer about three or four weeks prior to election day, which was also referendum day, explaining the process, but there was considerable confusion in the public's mind at the time of

the referendum question. What this motion attempts to do is to mandate the Chief Election Officer, who is a neutral figure, a non-partisan figure, to conduct a general awareness campaign so that people will understand the purpose and the methodology of the referendum; we have not held a referendum province-wide in nearly a century. So that's what the hope is.

We have not attached a financial figure to it because, of course, that is the prerogative of the finance minister and the cabinet, but we would hope that it would be substantial and that it would help people to understand the purpose and the consequence of their vote.

The Chair: Mr. Sterling.

Mr. Sterling: I, along with Mr. Prue, sat on the select committee on parliamentary reform, democratic renewal. In hearing what happened in British Columbia, there's no question that there has to be a much greater awareness on the part of the public of what's going on with regard to the referendum. As you know, the citizens' forum in BC came forward with a very, very complicated recommendation in terms of how people would be elected in the future in that province. Notwithstanding very few people understanding what in fact they were voting for, many of them voted in favour of this particular option. There's a lot speculation as to why that might have happened or might not have happened. Some think that it was a registration of a vote against the existing government at the time, so if they were angry with the government, they voted for a new method of electing the government. I'm not sure that was the case, but I suspect that some of the votes were cast because of that.

0950

I think it was most interesting to hear the chief electoral officer of British Columbia recollect about that particular provincial election in British Columbia. What he told our select committee was that in terms of inquiries about the election—he recorded the number of inquiries—there were something like 10,000 to 12,000 phone calls which the office of the chief electoral officer received during that election with regard to the candidates who were running. He only received 500 calls in total about the referendum.

I think what Mr. Prue is trying to put forward here is an effort on the part of the Chief Election Officer and a clear mandate to him to spend some valuable money with regard to making certain that the public understands it. British Columbia sent out pamphlets; nobody read them. I think it was the conclusion of many of the members of the select committee that it was really necessary to go on television, to really hype it up as to what the question was—not in favour or against it, but for the public to understand what they were voting on with regard to the referendum and to get interested in the referendum debate.

The other part of it, which Mr. Prue and I heard from the witnesses with regard to British Columbia, is that what will happen in October of this year when the election takes place is that politicians from parties probably will not take hard stances on this unless it really

becomes one of the focuses of the election. It did not become a focus in the BC election, and neither party took a stand for or against the referendum. Therefore, it wasn't really the hot topic at meetings or in the media or whatever.

We have here the potential of a question and a change in our electoral system without the public really being truly engaged. That's what I think Mr. Prue is putting forward and that's why I support the thrust of this particular motion.

The Chair: Thank you, Mr. Sterling. Parliamentary assistant?

Mrs. Jeffrey: We're in agreement with Mr. Prue and Mr. Sterling that the importance of public awareness cannot be understated and that it's important that they understand the choice that they are being asked to make. If the citizens' assembly recommends an alternative electoral system, we will ensure that Ontarians have a fair and neutral information package that they need to make an informed decision in that referendum. The legislation does anticipate that advocates and other interested groups will be engaged in their own educational activities across the province. We've studied and we've learned from the process in British Columbia.

The CEO, or the Chief Election Officer, is an expert in electoral administration. If a referendum is required, the Chief Election Officer will raise public awareness that a referendum is going to take place, as he currently does for most elections. His task is to ensure that Ontarians are aware that a referendum is going to occur at the same time as the next provincial election. We have confidence in his abilities. We will not be supporting this amendment.

Mr. Sterling: Why are you not supporting the amendment?

Mr. Prue: Until the last line, I thought—

Mr. Sterling: Yes, I thought you were going to support the amendment.

Mr. Prue: The entire rationale was in support of it.

Mr. Sterling: I would go even further here, because part of what will happen here too is that there's nothing in this bill which supports the No side with regard to this referendum. What we will have in the election, quite frankly, will be those people who want change, but it's going to be very difficult for anybody to say, "I want to keep the status quo." A politician won't say it because it would be seen as defensive by the public: "You're happy in what you're doing. You're feathering your own nest by maintaining the status quo."

I would have even gone further than what Mr. Prue said here in terms of the Chief Election Officer being mandated to have a public awareness campaign. I would also fund some of the activities of the Yes and No sides, because I think it's important that conflict be there, and if conflict is there on the issue, then it will come to the fore in terms of the public and they will vote either Yes or No on the basis of the debate that will take place. There will not be a debate in this election on the referendum unless we make certain that there are organizations that want it

and organizations that don't want it and that there is a true conflict and a true debate out there. I'm sorry, but I will support this particular motion for certain.

Mr. Prue: A recorded vote, please.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: That's defeated.

We'll go to section 4, then, an NDP motion.

Mr. Prue: I move that section 4 of the bill be struck out and the following substituted:

"Decision threshold

"4. The result of the referendum is binding if the recommended electoral system is selected in more than 50% of all the valid referendum ballots cast."

It's fairly simple. We asked research prior to the committee meeting to list all of the referenda that have been held in Ontario since 1867. There were five of them, and all five of them required 50% plus one to be successful. We can see from other referenda that have been held across Canada that in each and every case, they required 50% plus one, including Charlottetown, including what happened in Quebec, including Newfoundland coming into Confederation, including conscription, including every other major thing that's ever been put to referendum in Canada. This is an aberration. The only group that has ever decided to do this was British Columbia, and that had a very negative impact in so doing because 57% of the people chose to change and they were thwarted by the 43% who chose not to.

We had a number of deputations—and just to list them all, because you have that package in front of you. Literally almost every single person who came before us said that—and I'd better get their names correct because I want them as part of the record. Threshold for a binding vote: Fair Vote Ontario—50% plus one. Equal Voice, the voice for women, asked for 50% plus one. Mr. Dennis Pilon asked for 50% plus one. Ms. Susan Smith asked for 50% plus one. Mr. Shaul asked for 50% plus one. Deverell/Rosenthal talked about 50%. Babineau, Gregory, Howarth/Buck, Macdonald and Rapaport said that the threshold is undemocratic at 60% and should be 50% plus one. OPSEU, representing the provincial workers in Ontario, asked for 50% plus one. Gord Garland asked for 50% plus one. The Students' Assembly on Electoral Reform in a written submission asked for 50% plus one. Fair Vote Ontario talked about the threshold being incompatible with the Charter of Rights. Pilon talked about the weighing of votes differentially through the supermajority decision rule and how that was illegal.

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We then had a couple of people who spoke in favour of the 60% rule, but they were far outweighed by what has been normal practice in Ontario and in Canada.

It seems to me highly problematic if the government insists on a 60% rule. You have heard that there will potentially be court challenges. You have heard that it is undemocratic. You have heard that it is unfair. You have heard that it will weight the votes differently, that you will require 3-to-2 on the principle of votes being one and a half times more valuable on the No side as opposed to the Yes side.

I think this is the single greatest factor in this bill that would cause citizens to show disdain for the process. Citizens know that their vote will not count because it may be eminently impossible to get 60% turnout on one side or the other. Therefore, I ask the members to think very carefully about this. If you go forward with the 60% rule, you are in fact killing what the citizens' assembly is doing from the outset. You have had and I have had a letter from at least one assembly member detailing how members of the citizens' assembly wonder why they are going through all this work with the impossibility of getting 60% of the electorate onside should they make any recommended changes.

It's up to you, but I firmly believe that in a democracy like Canada, a majority is 50% plus one. Certainly, that's all that's needed to elect any one of us to the Legislature, even far less, and it should not be problematic to the extent that people after all these years are thwarted if there is any movement for change.

The Chair: Thank you, Mr. Prue. Parliamentary assistant?

Mrs. Jeffrey: Just commenting on the amendment, the motion, we heard a variety of opinions expressed on this issue. We heard arguments for a simple majority and we also heard arguments in support of the recommended decision rule. What we must remember is that the adoption of the new electoral system will represent a foundational change in our democracy, and legitimate electoral reform processes typically take many years to get through Legislatures. The referendum threshold in the proposed legislation reflects the significance of this decision. We believe a decision of this magnitude deserves to have the support of a solid majority of Ontarians across the province and the proposed legislation reflects the significance of this decision. We're requiring a consensus amongst Ontarians and the regions of the province and we believe that Ontarians deserve that level of certainty. We won't be supporting this amendment.

The Chair: Mr. Sterling?

Mr. Sterling: I will not support this amendment either, because I believe that our system has worked relatively well for the people of Ontario over a period of over 140 years, and before we make a demarcation from the method in which our MPPs have been elected in the past, I think it requires more than a simple majority. Other democratic institutions have rules, regulations,

different kinds of structures where more than a simple majority is required with regard to making major changes in their structures, so it is not totally uncommon for this kind of a threshold to be put there.

As well, my belief is that the institution of our Parliament should be changed prior to going out on a fishing expedition with regard to how people are elected. This institution will only work with significant reform within the walls of our provincial Parliament. I believe, quite frankly, that this is not truly democratic reform with regard to gaining the trust and confidence of the public in our institution. That was our position during the select committee as well as now. Therefore, I truly believe that the public are not engaged in this particular debate with regard to changing how MPPs are elected. I've talked to parliamentarians where systems are different, in terms of them being elected. I believe that before we head off in a new direction, which in many cases would almost guarantee minority Parliaments from here on for our Parliament, we need to have higher than a 50% threshold in order to change that system.

Mr. Prue: Recorded vote.

The Chair: We'll have a recorded vote on the amendment.

Ayes

Prue.

Nays

Jeffrey, Mossop, Peterson, Racco, Sterling.

The Chair: The amendment is defeated.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

That brings us to an opposition motion.

Mr. Sterling: I move that the bill be amended by adding the following section:

"Second referendum

"5.1(1) If the result of the referendum is binding and legislation to adopt the recommended electoral system comes into force, a second referendum shall be held in conjunction with the 2019 general election.

"Same

"(2) The purpose of the second referendum is to determine whether Ontario is to retain the new electoral system or revert to the one in existence at the time of the first referendum.

"Application of act

"(3) Sections 1, 3, 4 and 6 to 19 apply to the second referendum, except that for the purposes of the second referendum,

"(a) references to the referendum shall be read as references to the second referendum; and

"(b) references to the 2007 general election shall be read as references to the 2019 general election."

The purpose of this particular section is to ensure that should we change our electoral system, the public will

have an opportunity to comment on it again in the future after they've experienced two general elections under the new system.

What I found in my discussions and studying of the particular electoral systems in other parts of the world is that other influences start to press on the elected members who are elected under another system.

First of all, what seems to happen in some new electoral structures is that the parties gain significantly more control than the parties have in our present structure. I talked with some delegates from a province in South Africa, and they lamented the fact that they were under the tremendous pressure and control of their political parties and the political hierarchy of their parties. If they stepped out of line, they weren't going to be on the list next time, through the next election. So if we get a new system put in place where the parties become extremely powerful and the legislators are but pawns of the party, I think it's important, if the public do not like a change, that we guarantee a referendum in the future to reverse fields and go back to what we have at the present time.

I think it's unlikely that this section would kick into effect, but if we are going to allow the people the right to change history of 140 years in October of this year, I think we should also give the right to the people to go back and say, "Well, we made a mistake. We've had two elections experiencing a change in how we elect members. We want to go back to the system where we have one member, one constituency and direct accountability." So that's what the thrust of my amendment is, Mr. Chairman. I also would point out that I have shared this with other parties, and did so I think last week, so that the government would have an opportunity to review the amendment.

1010

The Chair: Okay. Any other comments? Mr. Prue.

Mrs. Jeffrey: Mr. Chair, can I ask a procedural question?

The Chair: If Mr. Prue will yield for a question.

Mr. Prue: I will yield for a question.

Mrs. Jeffrey: Can I just ask a procedural question with regard to motions 8 and 9 being consequential to this motion? Can we deal with all of them at the same time so that if motion 4 is passed by the committee, then motions 8 and 9 would pass at the same time? Conversely, if motion 4 doesn't pass, then motions 8 and 9 would also not be passed at the same time, because they speak to this motion, they speak to referendums.

The Chair: Both would seem to be out of order if the amendment before us at the moment is defeated.

Mrs. Jeffrey: I was just making sure that was how I read it and that was the way it was going to be dealt with—at the same time.

The Chair: Mr. Prue.

Mr. Prue: I cannot support this motion. Just to be clear, there would be three elections in between, not two. There would be this one here in 2007—oh, I see, 2011

and 2015. But there could potentially be quite a few more if there are minority governments. It may not be two.

Mr. Sterling: That's true.

Mr. Prue: But what troubles me here is the wording "whether Ontario is to retain the new electoral system or revert to the one in existence at the time of the first referendum." I have no doubt, should the citizens' committee embark upon a program that will change the way votes are counted—some form of proportional representation or whatever—there may be areas that will need modification.

What troubles me here is that in the year 2019, seeing that a minor modification may be necessary, that will not be put on the ballot in terms of a change. What would happen is you keep a system which is in need of change, a new system which is in need of some kind of modification; maybe it'll work perfectly and everybody will be happy, but it may need a modification. But then you're going to have to throw the whole thing out and go back to a system that has been rejected in 2007 because there's no alternative.

Just the way this is struck, it gives either/or. I think that in the whole scheme of things, it is far better that the citizens in that year come up with what they want to do in the citizens' assembly and that the Legislature take a really hard look over the next 12 years as to what is necessary, not just keep what we passed or go back to the old one, because I'm sure there will be other alternatives by that time. I have difficulty in doing either/or, and I cannot support the motion.

Mr. Sterling: Can I respond to that objection or do you want me—

The Chair: The parliamentary assistant will yield to your response.

Mr. Sterling: Basically, Mr. Prue, this is but a piece of legislation. Presumably, if things changed with regard to the outcome of the referendum, if the outcome of the referendum was over 60% and there was a set-up and then it was modified, the Legislature could come back and amend this particular section. But I think there would be great pressure upon them not to drop the option of the electorate having a referendum in 2019, to take whatever the election will be in 2019 versus the present first-past-the-post system that we have. So this is the best you can do without foreseeing all of the changes that would be required in the future and therefore I would ask for your support on the basis that there really is no other way to do it.

Mrs. Jeffrey: This legislation is about the holding of a referendum. If the opposition believes it is important that any system be adopted and reviewed, then a second vote should be held and it's appropriate, but we would consider it at that time; we think this is premature. We won't be supporting the amendment.

Mr. Sterling: That's what they said in New Zealand, that they were going to give the public another opportunity to review their system, and when the parties got hold of their particular system they denied the public the opportunity to have a second referendum with regard

to the change of their system. That is why I wanted to insert it in this particular piece of legislation. If we are going to allow the public to have a referendum, whatever the threshold is, and we pass that particular motion 60%, if 60% plus one want to return to the present system in 2019, this gives them a much better chance of having that option without the interference of the parties at that time.

Chances are, if everybody is happy with regard to the new electoral system at that time, the referendum wouldn't pass. All I'm saying is, if we're going to give the public the opportunity to change, then we should give them the opportunity to go back if they find that the parties and the politicians have run away with accountability, as they see it, and they want to return to the 150 or 145 years of history that we have benefited from in the present system.

The Chair: Okay. Shall the amendment carry? Those in favour? Opposed, if any? It is defeated.

Shall section 6 carry? Okay.

That brings us to an NDP motion on page 5.

Mr. Prue: I move that the bill be amended by adding the following section:

"Enumeration

"6.1 The Chief Election Officer shall cause a full enumeration to be conducted for every electoral district under section 18 of the Election Act, so as to ensure that the register of electors to be used in the referendum is as complete and accurate as possible."

If it's in order, and I trust it is, the rationale for this is that we have been through a number of elections since we've had this floating—or whatever it's called—electors list. I don't know anyone who thinks it works. If you go to apartment buildings, where people move quite often, you will find that literally no one is on the electors list. People have moved away. You have a whole list of people who are no longer there, no longer exist. It's very difficult to get a count. People are left off. I can only speak from my own experience. In the last four elections in a row I've had to go down and register myself. I don't know who thinks this system works, because it does not. We had at least one deputation talk about this.

In conjunction with an election and a referendum, it seems like a good time to go back to a system that did not fail us in the past and certainly where we can get a much better handle on the actual numbers of electors. It's very important, not only for the sanctity of the process, but it's also important for candidates, the political parties, because it is from the actual number of registered electors that the financing takes place where candidates who get above 15%—the expenditures that they're allowed to make. Right now those numbers are skewed and wildly inaccurate.

We ask that for at least this election we go back to an enumeration and get the system back into gear again, a system that is not working.

The Chair: Thank you, Mr. Prue. Parliamentary assistant?

Mrs. Jeffrey: I was kind of hoping you were going to rule this out of order. I don't think this is within the scope

of the bill, and I wonder if you would make a procedural—I think that's why Mr. Prue delayed at the beginning. He hesitated, expecting to be ruled, perhaps, Mr. Chair.

1020

Mr. Prue: No, I did not expect to be ruled, but I thought—

The Chair: I'm going to rule it's in order.

Mrs. Jeffrey: Even though part of what he's suggesting would affect the Elections Act?

The Chair: Let me consult, because it changes another act.

Mr. Prue: It doesn't change the act.

The Chair: Hold on for a second.

So it's in order. Go ahead, madam parliamentary assistant, if you want to speak to it.

Mrs. Jeffrey: Sure. We agree that it's important to have accurate and complete voter lists. That's an important part of our democratic process. We're sorry to hear that Mr. Prue hasn't been on the list the last four times, but we understand that the Chief Election Officer is trying to be proactive and update and improve the voters list, which I imagine is a moving target, with people moving across and around the province. I know that they've done targeted revisions; they did for the 2003 provincial election, and they visited over two million households.

The permanent register of electors for Ontario is refreshed from a variety of sources, either from Revenue Canada, the Ministry of Transportation, the Ontario Registrar, Citizenship and Immigration, and from final voters lists from federal and provincial elections, as well as MPAC information. We know that information gets shared between municipalities for people who have moved within their electoral district. We know that Elections Ontario takes steps before and during elections to revise those voters lists and to register electors. We can't support this amendment.

The Chair: Mr. Sterling.

Mr. Sterling: I just want to indicate my support for the amendment. I had hoped that the government, having had, I presume, advance notice of the NDP motions as well, might have brought back something in response to this. I think one of the problems the Chief Election Officer has now with delivering on the implementation of this kind of enumeration is the short period of time that we used to have in the writ period. Now that we have essentially a fixed election day, I think that this is more within the range of the capability of the Chief Election Officer to carry out an enumeration. You could basically start this three months in advance of the election and therefore go ahead. While it might be less accurate than the old records, there certainly would be the time.

I fully support the arguments that Mr. Prue puts forward with regard to the enumeration in the past. I was involved as a scrutineer in the recent by-elections. I was appalled at the lists in terms of how inaccurate they were, how many people were left off those lists. Only because it was a very light vote was it possible for the polling

booths to keep the business going. So I support this amendment.

The Chair: Shall the amendment carry?

Mr. Prue: On a recorded vote, please.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The amendment is defeated.

Are there any comments on section 7 through to section 18, up to and inclusive of section 18?

Shall sections 7 through 18 therefore be carried? Carried.

That brings us to section 19, the amendment on page 6.

Mr. Prue: I believe that section 19 comes before. That should be voted on. I leave that up to you because you're the Chair. No?

The Clerk of the Committee (Ms. Tonia Grannum): This is within section 19.

Mr. Prue: All right. With that clarification, I move that section 19 of the bill be amended by adding the following subsection:

"Purpose of regulations

"(1.1) The purpose of the regulations is to govern the referendum by provisions that,

"(a) resemble the provisions of the Election Finances Act as much as possible; and

"(b) are not unduly onerous or limiting for referendum campaign organizers."

By way of explanation, section 19 sets out a whole list, with which I am in agreement, of what needs to happen for the referendum campaign, referendum campaign finances. It's got some 13 or 14 aspects to it. What we are merely saying at the end is that the purpose of the regulations—they need to be interpreted and as closely as possible resemble the provisions of the Election Finances Act and help, not hinder, people who are referendum campaign organizers either on one side or the other. It's not clear how these will be interpreted. This is an attempt so that it is made more clear that this will be conducted in much the same way as an ordinary election and that people working on this process will have the same kind of latitudes, freedoms and obligations as those who work on partisan election campaigns.

Mr. Sterling: Can I ask a question of legislative counsel? Is it normal or have we put in legislation the purpose of regulations? I don't know whether I've seen that before or not. Is that normal, for us to do that?

Ms. Cornelia Schuh: It's not common, but I don't see any rule that would oppose it.

Mr. Sterling: Okay. Just a further comment on this. This, Mr. Chair, would be the area where I would have put in the right of the Lieutenant Governor in Council to

allow the financing of the Yes and the No sides. It appears that these regulations give the cabinet the right to make rules around who can organize in terms of promoting or going against the particular referendum question, but it really doesn't offer any assistance to those particular groups. If we are going to require them to come in line with regulations, register and that kind of thing, I think it's only fair that we provide them with some kind of financing ability.

The Chair: Okay. Any further speakers? The parliamentary assistant.

Mrs. Jeffrey: I guess I wanted to just comment on the amendment, or the motion. We're encouraged by the fact that we heard from so many Ontarians who are encouraged and excited about participating in the referendum, and we certainly understand the importance of transparency in respect to the rules that govern the potential referendum campaign period.

The structure we've proposed for the referendum campaign finances is similar to the Election Finances Act. It would include spending and contribution limits, advertising rules, and reporting and record-keeping requirements similar to those of governing parties and candidates. The regulations could impose regulation requirements on people and entities who wish to campaign in the referendum, and the legislation and regulations would not allow for public subsidy of referendum campaign expenses.

We believe that ultimately the rules will be familiar to Ontarians and those involved in the political process in Ontario and that the rules will enable a lively and engaged electorate in the referendum debate and establish an inclusive process that is fair and transparent.

We feel that the proposed amendments are problematic in that they fail to articulate a legally certain standard. Therefore, we will not be supporting the motion.

The Chair: Okay. I'll put the question on the amendment.

Mr. Sterling: Can I ask a question, Chair?

The Chair: Yes, of course.

Mr. Sterling: You mentioned that the organizers—this is about the financing of these organizations who are either for or against the referendum. People can donate to these particular organizations, but there's no advantage in terms of tax credits; there's no government funding of the Yes or the No side. So basically they are left on their own to raise their money, and that's the point I was making. I think we want to be very, very clear that there's no guarantee that either side is going to have the necessary financing to go on television, to raise the profile of this particular issue.

The Chair: Okay. Thank you.

1030

Mr. Prue: A recorded vote, please.

The Chair: A recorded vote.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The amendment is defeated.

Shall section 19 carry? Carried.

That brings us to section 20, PC—okay, there's notice with respect to 20, so we'll go right to the government, then, on page 7.

Mrs. Jeffrey: I move that section 20 of the bill be struck out and the following substituted:

“Repeal

“20(1) If a referendum is held in accordance with section 2,

“(a) sections 2 to 11, sections 17, 18 and 19 and tables 1 and 2 are repealed on the day the Legislature is dissolved for the first time after the 2007 general election; and

“(b) the remaining provisions of this act are repealed on October 10, 2013.

“(2) If no referendum is held in accordance with section 2, this act is repealed on the day the Legislature is dissolved for the first time after the 2007 general election.”

This motion would amend the repeal provision of the referendum legislation. Currently, the legislation provides that the legislation in its entirety is repealed when the first general election is called after the upcoming October 10, 2007, general election. This could, at a maximum, be in October 2011. It is required by statute 12(1)(e) that the Chief Election Officer publish on the Internet for six years all guidelines and directions he or she issues, as well as any financial reports that he or she receives from the referendum campaign organizers. This is similar to the rule under the Election Finances Act. In order for statute 12(1)(e) to remain in force, the repeal provision needs to be adjusted to accommodate this extended time frame.

As long as these records are published, the interpretations (section 1) and enforcement provisions (sections 12 to 16) also need to remain in place in case any reporting discrepancies are revealed that need to be examined. The repeal deadline needs to be extended to October 2013, but only if a referendum is held. Otherwise, the current repeal provision is fine.

This is a housekeeping or technical amendment and it will ensure that if a referendum is held, the referendum campaign finance reporting is transparent and consistent with the Election Finances Act, as recommended by presenters before the committee. If you'll recall, OPSEU made this recommendation in one of the presentations. I believe Susan Smith expressed concern that if the referendum was held without a change to the existing repeal provision, the Chief Election Officer might not have to keep the financial reports he receives from a referendum campaign organizer posted on the Internet for six years, as intended. This amendment ensures that if a referendum is held, all financial reports and related materials will remain posted until October 13. This is the

same length of time that the Election Finances Act has documents remain posted. Additionally, if a referendum is held, it will ensure that the Chief Election Officer will have ample time and authority to investigate any referendum finance complaints that should occur.

The Chair: Thank you. Shall the amendment carry?

All those in favour? Opposed? It is carried.

Shall section 20, as amended, be carried? Carried.

Shall section 21 be carried? Carried.

The motion with respect to section 22 has been ruled out of order.

Shall section 22 be carried? Carried.

Mr. Sterling: How is it out of order? I was going to withdraw anyway, because it doesn't make any sense, because I hadn't changed—

The Chair: That's why it's out of order.

The Clerk of the Committee: We haven't changed the bill enough to warrant the change in the title.

The Chair: We should withdraw everything that doesn't make any sense.

Mr. Sterling: The long title—I withdraw that motion as well.

The Chair: Withdrawn; okay.

Table 1, Special Rules Relating to Scrutineers: Shall that be carried? Carried.

Shall table 2 be carried? Carried.

Shall the long title of the act be carried? Carried.

Shall Bill 155, as amended, be carried?

Mr. Prue: Recorded vote.

The Chair: A recorded vote.

Ayes

Jeffrey, Mossop, Peterson, Qaadri, Racco, Sterling.

Nays

Prue.

The Chair: It is carried.

Shall I report the bill, as amended, to the House? All those in favour? Carried.

Just before we adjourn, let me just make a comment as the Chair. Behind every reasonably decent Chair is a wonderfully exceptional clerk and legal support staff. We want to just express our appreciation and thanks to them for bearing with us through this onerous process.

Shall we adjourn? Carried.

The committee adjourned at 1036.

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le référendum relatif au système électoral, projet de loi 155, M^{me} Bountrogianni M-311**

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

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AUDI ALTERAM PARTEM

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Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 29 March 2007

Journal des débats (Hansard)

Jeudi 29 mars 2007

Standing committee on the Legislative Assembly

Assignment of ministries

Comité permanent de l'Assemblée législative

Désignation des ministères
aux comités



Chair: Ted McMeekin
Clerk: Tonia Grannum

Président : Ted McMeekin
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Thursday 29 March 2007

Jeudi 29 mars 2007

The committee met at 1538 in committee room 1.

ASSIGNMENT OF MINISTRIES

The Chair (Mr. Ted McMeekin): I'll call the 497,113th meeting of the standing committee to order.

Because a new Minister of Revenue has been appointed and there is some historic precedent that revenue issues with respect to standing committee purview fall

under general government rather than ours, we're here to make that official, as I understand it.

You have the draft committee report, pursuant to standing order 109(b). Shall the report, pursuant to standing order 109(b), carry? Carried.

Shall I present the report to the House? Carried.

If there's no further business, I adjourn this meeting.

The committee adjourned at 1539.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Thursday 19 April 2007

Journal des débats (Hansard)

Jeudi 19 avril 2007

Standing committee on the Legislative Assembly

Organ and Tissue Donation
Mandatory Declaration Act, 2007

Comité permanent de l'Assemblée législative

Loi de 2007 exigeant
une déclaration au sujet
du don d'organes et de tissu



Chair: Ted McMeekin
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 19 April 2007

Jeudi 19 avril 2007

The committee met at 1601 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Ted McMeekin): Members of the committee, thank you all for coming, and to our guests, welcome. We'll begin with a report of the subcommittee. Is there a mover?

Ms. Jennifer F. Mossop (Stoney Creek): Your subcommittee met on Monday, April 2, 2007, to consider the method of proceeding on Bill 67, An Act to amend various Acts to require a declaration with respect to the donation of organs and tissue on death (Mr. Klees); Bill 164, An Act to amend the Consumer Protection Act, 2002, the Environmental Protection Act and the Occupational Health and Safety Act (Mr. Tabuns); and Bill 161, An Act respecting employment agencies (Mr. Dhillon), and recommends the following:

(1) That the committee meet for public hearings at Queen's Park on Bill 67 the afternoon of Thursday, April 19, 2007, and meet for clause-by-clause consideration the afternoon of Thursday, April 26, 2007.

(2) That the committee meet for public hearings at Queen's Park on Bill 164 the morning of Thursday, April 26, 2007, and meet for clause-by-clause consideration the afternoon of Thursday, May 3, 2007.

(3) That the committee meet for public hearings at Queen's Park on Bill 161 the morning of Thursday, May 3, 2007, and meet for clause-by-clause consideration the afternoon of Thursday, May 10, 2007.

(4) That when the committee meets in the morning, it meet from 10 a.m. to 12 p.m., pursuant to the order of the House, and when the committee meets in the afternoon, it meet from 4 p.m. to 6 p.m., subject to change and witness demand.

(5) That the clerk of the committee place one advertisement for the three private members' public bills for one day in all the English dailies, the one French daily and in the York regional papers.

(6) That the clerk of the committee post information regarding public hearings on Bills 67, 161 and 164 on the Ontario parliamentary channel and the committee's website.

(7) That interested parties who wish to be considered to make an oral presentation on Bill 67 contact the clerk of the committee by 5 p.m. on Tuesday, April 17, 2007.

(8) That interested parties who wish to be considered to make an oral presentation on Bill 164 contact the clerk of the committee by 5 p.m. on Tuesday, April 24, 2007.

(9) That interested parties who wish to be considered to make an oral presentation on Bill 161 contact the clerk of the committee by 5 p.m. on Tuesday, May 1, 2007.

(10) That the sponsors of each of the three private members' public bills be permitted to make a five-minute opening statement at the outset of public hearings on their respective bills.

(11) That all witnesses be offered a maximum of 10 minutes for their presentation.

(12) That the deadline for written submissions on the three private members' public bills be 5 p.m. on the day of public hearings for each bill.

(13) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 6 p.m. on Tuesday, April 24, 2007, for Bill 67; by 6 p.m. on Tuesday, May 1, 2007, for Bill 164; and by 6 p.m. on Tuesday, May 8, 2007, for Bill 161.

(14) That the research officer provide the committee with background research on mandatory declarations in other jurisdictions with respect to Bill 67, and background research on comparable legislation in the European Union, Vermont and California and other jurisdictions with respect to Bill 164.

(15) That the research officer provide the committee with a summary of public hearings by 5 p.m. on the Monday of the week during which clause-by-clause consideration will take place for each of the three private members' public bills.

(16) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Move seconded? All in favour? Carried.

ORGAN AND TISSUE DONATION
MANDATORY DECLARATION ACT, 2007LOI DE 2007 EXIGEANT
UNE DÉCLARATION AU SUJET
DU DON D'ORGANES ET DE TISSU

Consideration of Bill 67, An Act to amend various Acts to require a declaration with respect to the donation of organs and tissue on death / Projet de loi 67, Loi

modifiant diverses lois pour exiger que soit faite une déclaration au sujet du don d'organes et de tissu au moment du décès.

The Chair: We'll move to an opening statement by the sponsor of this bill, Frank Klees.

Mr. Frank Klees (Oak Ridges): At the outset, I want to take this opportunity to thank my colleagues for giving their consent to the all-party agreement to bring this private member's bill forward for public hearings. This is an important next step for this bill, which was unanimously supported during second reading on March 30, 2006.

I also want to thank members of the public for their expressed interest in the broader issue of organ donation and this bill specifically. That interest was expressed over the last number of months through numerous petitions that were read into the record by members from all parties. Their voices, through those petitions, are heard at this committee as well.

I want to thank also the many Ontarians who submitted their comments through e-mails and letters over the last number of months, especially those who will be appearing here today. We look forward to their advice, their input and their clarification.

I want to make reference to one specific letter that I received from Linda MacGregor, the president, and Elaine Harvey, the chair of the education standing committee of the Canadian Federation of University Women, Ontario Council. In that letter they pointed out something that, quite frankly, I as the drafter of the bill had missed. That was, while the intent was very clearly stated—that individuals would be given an opportunity to express their wishes, yes, no or undecided—they pointed out that the “undecided” reference was not specifically referenced in the legislation. They felt that it would be important to incorporate that in the legislation. I just want to give notice at the very outset that it's my intention, when we go into clause-by-clause, that I will be moving an amendment to incorporate that very specific term so that it's very clear that we want to ensure that individuals are given the opportunity to consider the important issue of organ donation, that no one intends to force anyone into making a decision, thereby leaving the “undecided” option available to individuals as an expression of their position on this.

I also want to take this opportunity to thank the Citizens Panel on Increasing Organ Donations who, under the leadership of Dr. Ted Boadway, travelled the province over the last number of months soliciting input on the issue of organ donation and prepared a comprehensive report that made some 26 recommendations to the government. That report was formally released this morning, and I'm pleased to report to the committee that the panel very expressly endorsed the provisions proposed in Bill 67. Dr. Boadway expressed very clearly in his remarks this morning that he would want to see the day when every Ontarian is required to make a declaration concerning organ donation on their health card or their driver's licence and that those declarations,

in his words, would be “yes,” “no” or “undecided.” That, of course, is precisely what Bill 67 does.

1610

I'd like to acknowledge as well Mr. George Marcello, present with us today, himself an organ recipient and an activist for organ donation. Mr. Marcello has travelled the world in support of this issue and has headed up and organized—he's the charter founder of an organization called Step by Step. He's doing incredible work to raise awareness of organ donation, not only here in Ontario but internationally.

I would also like to read into the record, if I could, a statement by the Ontario Medical Association that they issued this morning:

“The Ontario Medical Association ... strongly supports increased awareness and education to improve organ donation rates in the province of Ontario. Today, Bill 67, Organ and Tissue Donation Mandatory Declaration Act, is being considered by the standing committee of the Legislative Assembly. The bill proposes that Ontarians over the age of 16 be required to fill out their donor cards in order to obtain a driver's licence or health card. Ontario's doctors believe the steps outlined in the bill will help improve donation rates, and we encourage all parties to work together to implement the bill.”

I want to, finally, read into the record one of the letters that I received from Mr. Sam Marcello, who is a brother of George. He states that he would have liked to be here himself, but he wanted to have this noted:

“Please be advised” that “I am unable to attend the public hearings on April 19 ... on the issue of organ donation. I would like to make my comment on this issue. I believe that this Bill 67 will save more Ontarians' lives as there will be more individuals donating their organs. Please accept this request to have the bill become law.”

We look forward to hearing the submissions today. Of course, the public understands that, based on the submissions we receive, we as a committee will take into consideration any advice we might have to improve the bill, to perhaps make some adjustments in the fine details of the wording, and then the bill would come to clause-by-clause next week for final consideration. The hope then would be that the government would see fit to call it back into the Legislature for final approval.

In summary, by the very fact that it is a mere administrative measure, that it is very straightforward, that it does not force the hand of anyone but simply creates the opportunity for us in this province to raise the awareness of organ donation, I'm hopeful that I'll have the support, not only of this committee but of the Legislative Assembly, in enacting this bill.

The Chair: Thank you very much, Mr. Klees. As Mr. Klees has outlined, we intend to hear from public presenters this afternoon. Then, next Thursday morning, I believe, we're into clause-by-clause.

ONTARIO BAR ASSOCIATION

The Chair: Members of the committee, we have a list of those who have indicated a desire to speak. Appar-

ently, the 4 o'clock and the 4:10, namely Peter Casey and Angela Casey and the Ontario Medical Association, have both cancelled. Your agenda should show that.

We'll ask if the 4:20 presenter, the Ontario Bar Association, is here. Welcome, ladies. If you would state your names for the record, then I can just explain. You have 10 minutes to make your presentation. Should your presentation fall short of the 10 minutes, no problem. That will allow committee members time for questions.

Ms. Jasmine Ghosn: Good afternoon. Thank you for allowing us this opportunity. My name is Jasmine Ghosn. I am the chair of the Ontario Bar Association, health law section. With me is Mary Jane Dykeman, who is a member of our executive.

Several months ago, it came to our attention that there were actually four bills in front of the Legislature on organ donation and that the ministry had struck a citizens' panel on organ donation. As a result of this interest, we struck a committee of lawyers who practise in the area of health law to review this issue of organ donation.

Mary Jane Dykeman, who is on the committee, is going to present some of the issues that we have identified and would like to bring to your attention.

Just a little background about the health law section at the Ontario Bar Association: We have 300 members, who focus their practices on health law. We are 300 of 17,000 lawyers in the province.

We're very pleased to have this opportunity to represent the Ontario Bar Association here today.

Ms. Mary Jane Dykeman: It's a wonderful opportunity and a great topic, both from a legal perspective and a social policy perspective—obviously, that's why all of you are here.

Just by way of an anecdote, many years ago, before I started law school, I worked in an administrative capacity for the multiple organ retrieval and exchange program in Ontario, the predecessor group to the existing Trillium Gift of Life Network. In that capacity, I had to field hundreds and hundreds of calls from individuals in the public looking for information about organ donation. Those were in my early formative years of really looking at allocation of scarce resources, biomedical and ethical issues and the like—and part of the reason I went to law school, frankly.

Day to day, many of the 300-plus members of the health law executive at the Ontario Bar Association are dealing with consent-to-treatment issues. Obviously, there's some parallel.

I would certainly say that from the perspective of having heard from many of those members of the public, there's always the need for education, which is part of the mandate of the Trillium Gift of Life Network—and always looking at ways to increase the number of donations.

That's nigh on 20 years ago, and there has been a lot of progress since. As we sit here today with this bill—I think Mr. Klees characterized it as an opportunity. From our perspective as health lawyers, I think that's exactly what it is.

I don't think that we see any inherent impediment—it would be hard to suggest that there is—in the framework that has been set out here. Clearly, they are straightforward amendments to a couple of pieces of legislation from the point of view of families and people looking ahead to the possibility that they should ever be in that circumstance. It only makes sense that a person going in for a health card or going for a driver's licence could be asked that question reasonably.

As you're aware, there are many other proposals, internationally, nationally and in Ontario, that receive great scrutiny.

What we will say is that as a non-invasive conversation starter, this is a great step.

One of the things that I used to hear when people called was that they wanted to know what the status of this medical directive was—if they signed something, what would happen? We always encouraged them very strongly to make those wishes known to family. One of the things that people would worry about, of course, was: Where do you find that piece of paper?

In fact, when I raised this with family members yesterday—they were just asking what my day entailed, and I mentioned that I was coming here to speak to this committee—two people started rooting around, looking through their wallets, saying, "Did I ever sign one? Well, you know what my wishes are, so that's fine."

This is one way of having that conversation out front. In conjunction with any educational initiatives that are also put forward as part of the broader framework, it's probably a very good, coordinated approach.

In short, we have no real objections to it. I think we're very strongly supportive of it.

Probably the only question we have—and we did supply a fairly lengthy submission, which would not be a surprise, really, that flows somewhat out of the work that we did on the four proposed bills and provides a lot of detail. But to narrow the focus to Bill 67 and the work that's being looked at here, I think it's the question of the registry and how that might work, and also, as part of the educational initiative, how do you put it forward in a manner that is not intrusive, that spurs the conversation and the careful consideration of a person who might want to make that decision; and also the reflection that however it's presented, that it doesn't coerce the person or have—of course, it's not meant to coerce the person, but not have the perception of coercion, or of judgment, for that matter.

1620

I think there is some question in terms of how the registry would work, how we track the decisions that people make and how we would have a mechanism in place to really identify the point at which a person withdraws consent. Again, working in areas where we're dealing with health care consent, it's a constant challenge and I'll say opportunity—I'll use Mr. Klees's words—to ensure that we track patient consents for treatment properly. I think the same goes for this framework.

So those are the things we'd like to know more about. We're certainly happy to answer any questions in the short time that we have. Thank you.

The Chair: Thank you. We have about four minutes, so why don't we take a couple of minutes each. We'll start with you, Mr. Klees.

Mr. Klees: I appreciate your submission today. First of all, your reference to a registry system is right on the mark, and of course this bill doesn't deal with that. It is contemplated that that will in fact be an important part of the overall system that we look to the government to implement, and the panel made specific reference to that. So we're looking forward to that.

You have raised a legal consideration with regard to the issue of the withdrawal of the declaration. Do you have any specific recommendations that you could make by way of an amendment to clarify that aspect of it?

Ms. Ghosn: It might be helpful to include, perhaps on the form the person fills out or even on the card that's eventually issued, that in the event an individual at a later date would like to withdraw their consent, they can dial a 1-800 number or somehow get in touch with an authority that would quickly take that information. It's helpful in several ways. It might even be that the 1-800 number is also the number for people to give consent; maybe they don't drive, maybe they don't have an opportunity to fill out one of these forms. So it's all connected to the same registry system. That was part of the recommendation.

We know the Trillium Gift of Life Network is going to be heavily involved in organ donation, and they may be the applicable entity to assume responsibility for coordinating a registry system. Our recommendation would be that this withdrawal of the consent would be tied in to that entity.

Mr. Klees: Thank you very much.

Mr. Peter Kormos (Niagara Centre): I quickly read your submission, your written material. I urge people—I don't know if there are copies of it there or not. It's a very valuable and concise synopsis of some of the leading literature, including, most notably, comments on the cultural aspects of it and our need to recognize cultural differences. Mind you, I suppose I'm a cultural revolutionary. I want to change the culture around organ donation. I mean, I just don't feel possessive about mine at all. I suppose while I'm alive I have regard for them being kept intact, but once I'm gone, as I have told so many people—I've got two things: I've got a 1994 Chev pickup and my organs. Once I'm dead, I have no use for either of them. Anybody who wants or needs them, come and get them.

Look, here's the bill. It's consistent with the primary—one of the primary recommendations of the blue ribbon panel was, let's get rolling on this. It's a modest proposal in the total scheme of things. You talk about a registry. Heck, if cops can CPIC my driver's licence number—K66176253521007—and find out all sorts of things, why can't that similarly be the database for determining whether or not my licence says go to town when it comes to harvesting or salvaging or saving lives?

Ms. Ghosn: If I can just respond to the cultural issues, I think it would be helpful also in the application process to have either web links or resources where people can go if they have questions or they want more information on organ donation. The process of filling out an application form is very technical—fill in your name and address; do you declare, yes/no? It may be helpful to have a reference that people can go to for additional information.

The Chair: A question on the government side?

Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale): First of all, thank you very much, both of you, for coming forward before the committee to give your long submission.

Right now, people sign their driver's licence for their organ donation. If one of the family members or next of kin is trying to change their decision—the question I have is, should that tool be changed or not?

Ms. Dykeman: Speaking from a hospital perspective, and not on behalf of any single hospital, what we hear—and even in my experience some years ago—is that the physicians and the hospital generally will not override the wishes of a grieving family. In terms of whether one could make that medical directive enforceable, to that extent it's probably possible legally and legislatively, but it certainly is a much stronger step—again, maybe part of the education.

The Chair: Thank you very much. We appreciate your presentations.

KIDNEY FOUNDATION OF CANADA

The Chair: Is there someone from the Kidney Foundation with us? Again, for the record, please tell us who you are, and once you've done that, we would invite you to speak for up to 10 minutes.

Ms. Janet Bick: My name is Janet Bick. I am the director of government and professional relations for the Kidney Foundation of Canada.

Joining me is Wayne Sampson, a kidney transplant recipient and active volunteer with the foundation.

First of all, we would just like to congratulate Mr. Klees for his perseverance in bringing Bill 67 to this point and to thank the committee members for this opportunity to comment on the bill.

We will try to be brief and leave some time to respond to questions.

To begin, Wayne will share with you what a kidney transplant has meant to him and his family.

Mr. Wayne Sampson: Thank you very much, first of all, for letting me present.

I've got a sheet here and I'm probably going to follow it the best I can, but I'm not used to speaking in this manner, so I'd rather just go mainly by memory.

In 1980, I was diagnosed with polycystic kidney disease, which is a hereditary disease given to me through my family, mainly my mother. At the same time, I was born with one kidney, but I didn't know that for

many years. From that time until 2002, I lived a normal life. I had no real health issues.

In early 2002, I was referred to a pre-dialysis clinic, which meant I would be put on dialysis eventually, at Lakeridge Health in Whitby.

My health continued to decline and my energy level became lower and lower. I was unable to continue working full-time and was forced into early retirement at the age of 55. The frustration of being unable to keep my normal lifestyle was very hard to deal with. I tried to push myself every day, but I spent the rest of the time sleeping.

When I started on dialysis, I felt better. It's not exactly administered as a pill, but it was a great pill. I felt better. I was still tired. My daily activities were very challenging, and I had some issues.

1630

In July 2005, I received a kidney transplant. The donor of my new kidney was one of my daughters. It was a live donor. She and I are both doing wonderfully after the procedures. There isn't a day that passes that I don't appreciate my new gift of life. I can only wish that the people waiting for a transplant—I hope you have that information in front of you; if you don't, we can certainly get it for you—could some day experience what my family and myself have been able to enjoy since July 2005. Thank you.

Ms. Bick: As Wayne has told you, kidney transplants offer the best chance for a return to normal life. Kidney transplants save lives, but last year 41 people in Ontario died waiting for one. Ontario has the second-longest wait time for a kidney transplant in Canada. The median wait time for a first adult kidney transplant between 2002 and 2004 was 4.5 years. Some have been waiting for as long as 10 years. In 2006, there were 1,194 people waiting for a kidney transplant in Ontario, and only 498 were performed. That's less than half the list, and the list grows each year.

The Kidney Foundation supports Bill 67's desired outcome of increasing the availability of organs and saving lives. As we note in our submission, organ donation is a complex, multi-faceted process influenced by a wide variety of activities occurring at the individual, institutional and societal level.

Bill 67 offers Ontarians an important opportunity to register their wishes regarding organ donation. However, checking off a box on a health card or driver's licence is only a first step. The importance of individuals talking to their families—we heard this from the previous presenters—and making their wishes clear cannot be overstated. In the unfortunate circumstance where someone has suffered a traumatic injury or medical event and is identified as a potential donor, it is the next of kin who will be approached to give consent.

Studies have shown that families who are not aware of their loved one's wishes are just as likely to withhold consent as to give it. It is therefore imperative that in the implementation of the provisions of Bill 67, initiatives be put in place to ensure that the public understands the

need to discuss their wishes with their families to minimize uncertainty and possible conflict at the time of death. The development of a province-wide public education social marketing campaign with multiple stakeholder input is required. The campaign should be ongoing and promote clearly articulated, consistent messages.

We all know what drinking and driving campaign messages have done. We all know what anti-smoking campaigns have done. It's time to do this for organ donation.

The programs should be designed for implementation by local constituencies and the ministries of transportation and health and long-term care, which are responsible for drivers' licences and health cards, respectively. The key messages should focus on the benefits of organ donation and transplantation as well as the importance of sharing your decision to donate with your family. An ongoing and sustainable campaign promoting clear, concrete actions is needed to complement the systemic improvements already achieved by the Trillium Gift of Life Network to convert positive intentions into increased donors.

Donor families uniformly report that agreeing to donation gave comfort and meaning to the sudden traumatic death of a loved one. Every Ontarian who wants to be an organ donor, if such circumstances arise, should know that their wishes would be respected.

The Chair: Thank you very much. We have about four minutes or so, so we'll try a minute each, because they tend to go a bit over. We'll begin with you, Mr. Klees.

Mr. Klees: Thank you again so much for your submission and for the good work that you do. Mr. Sampson, the fact that you're testifying to how a transplant has in fact saved your life I think helps us to better understand the urgency of being able to make this possible for more people. The waiting list for organ transplants is, I think, in many ways the silent waiting list in this province. We talk a lot about hip and knee replacements and other waiting lists, but we very seldom talk about this, yet there are people in agony day after day and one person dies every three days in this province waiting for a transplant.

I thank you for your good work and also for your reference to the importance of education. As you know, the bill is intended to do exactly that by, on an ongoing basis, reminding people every time their renewal comes up that they have to confront this issue. I think what you're saying is that, in addition to simply making this part of the application, there should be a way that we can supplement that requirement with some additional information that will make people feel more comfortable about the act of committing to being an organ donor. Perhaps we can get some advice from you on exactly what that should look like.

Ms. Bick: We know that a tremendous amount of time and people's energy over the last probably 15 to 20 years has gone into looking at the barriers to organ donation. We know that amongst the public there are often so-called myths that people are concerned about. I think

materials and programs really are needed that can address some of the concerns, along with—this morning, the panel on organ donation in its report does also talk about religious differences and cultural differences. I think those need to be respected and explained. I don't think that enough ongoing attention has been given in a public fashion to making the public aware of all of these issues. Next week is National Organ and Tissue Donor Awareness Week—it's a mouthful; NOTDAW for short—and that's once a year. We need to be hearing organ donation messages every week.

Mr. Klees: Thank you.

The Chair: Mr. Kormos?

Mr. Kormos: Thank you kindly, both of you. You've raised some issues that compel me to request of our legislative research person—one, I'd like to know—obviously we're limited in what can be donated by a living donor, because it's got to be those types of organs like kidneys, where God gave us two rather than just one.

Ms. Bick: At least. Some people have more.

Mr. Kormos: Of kidney donations, can you get some numbers for us on how many come from living donors versus non-living donors; and, of the living donors, the nature of the relationship, because I presume there are issues around matching?

Where this takes me to is this: Canadians, I believe, are very generous people. Young Canadians volunteer—we don't have a draft, but they volunteer for the armed services and not only risk but give their lives and are being shipped home, sadly, on a weekly basis. What will it take to make us feel good enough about ensuring someone else lives to be a living donor for an absolute stranger? Do you see what I'm saying?

Ms. Bick: I hear you.

Mr. Kormos: I want to know what we have to do to create a society where a Canadian would be a living donor to someone they had no idea about and maybe never will. That's an admirable goal, it seems to me.

Ms. Bick: I think that's certainly something that people might well like to see happen. Just to answer your research question first, last year approximately 225 living donors provided kidney transplants in Ontario. The relationships are generally family but they are also often a friend, a colleague, that sort of thing. So it doesn't have to be a blood relation.

The issue of what you would call living anonymous donation has certainly been looked at. Currently, there has been a pilot in BC that has gone very quiet, and we're not sure why. But it's certainly an issue that is out there. I think part of the education and part of the other pieces that we're talking about here today might well contribute to that. This one is a little bit more loaded in terms of some of the ethical issues and so on, and maybe there's a need for finding out what the public really thinks of that.

Mr. Kormos: Thank you, ma'am.

The Chair: One minute, Ms. Mossop.

Ms. Mossop: I suppose I just want to support your concept around education and also speak a little bit to Mr. Sampson. Back in 1971, my father died of kidney

disease just short of being put on the table for a very pioneering kidney transplant. I was 10 years old at the time so I wasn't in a position to do what your daughter did, but boy, I'd love to have had that opportunity. My mother subsequently worked for the Kidney Foundation of Canada and with Dr. Cal Stiller in London, at University Hospital, where they started to move those transplants into the successful operations that they now are. I remember going to shopping malls with her when I was a young teenager and trying to convince people to sign these cards. I would always go up to these very nice-looking, elderly ladies who were likely just to say yes because they were sweet. My mother was going up to these young, really tough-looking people like bikers. I said to her afterwards, "Why are you going up to them?" She said, "Well, you know what? With their lifestyle, they're more likely to be candidates to help us out sooner." Maybe that was brash but, boy, you had to get in there and get the job done.

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She also went out to service clubs and helped to educate people. I think the education was really a huge factor. Subsequently, we had the families of living donors stay in our home when they were going through this new operation, and I just want you to know that that discussion is alive and well in all parties. Obviously, you've seen the number of private members' bills that have come forward on this issue, and also the panel the government struck that's been travelling the province to raise awareness, to consult and to get some recommendations as to how best to move forward to make your miracle the miracle we can share with as many people as possible. So thank you for your time here and for sharing your story.

The Chair: Thank you for sharing your story. Ms. Mossop, thank you for sharing yours as well.

HENRY LOWI

The Chair: Mr. Henry Lowi. Did I pronounce that right?

Mr. Henry Lowi: Yes, thank you.

The Chair: Welcome, Mr. Lowi. We know for the record that this is Mr. Henry Lowi. You have 10 minutes, sir.

Mr. Lowi: Thank you very much for permitting me to appear before you today. And thank you to Mr. Klees and to Mr. Kormos for your private members' bills, which I think are excellent initiatives.

In the news recently there's been heightened interest in this issue because of some tragedies, but there's also been heightened awareness, I think, as a result of education and efforts that have been taken and that have been made by groups like the Trillium Gift of Life Network, in which I'm a volunteer. I actually interact very often with the public. I've done this for several hours this week already and there has been a change. I can tell you that in my limited experience, in the last two or three years there's definitely been more awareness of this

issue, and people are more opinionated, which is the important thing, than ever before. I think that the problem, as I'll express in my deputation today, is that the government is lagging way behind in facilitating effective organ donation from willing donors.

Just a little bit about myself: I was diagnosed four years ago with idiopathic pulmonary fibrosis, which is a disease that has no effective treatment and no cure. The mean survival time for IPF patients is 28 months, so I've outlived my best-before date already. Almost all are dead within five years. Thanks to serious lifestyle changes, diet and exercise, I've kept my condition stable, but the expectation is that at some point my condition will suddenly and rapidly deteriorate, and then I'll require a double lung transplant within two to four weeks. Without the transplant, I'll be dead within two months from the moment I begin to decline.

You've heard about the 1,800 people who are on the waiting list, and you've heard about one dying every three days. And you've heard a little bit about, from one of the last speakers, the fact that even when people sign their donor card, if there's a miscommunication or lack of communication between them and their families, then family members in 50% of the cases where people have signed a donor card and the donor card has been found have said, "I don't know. He never talked to us about that, so I really don't know." So that's a structural flaw in the system. In my view, the system is not really a system to facilitate organ donation; it's a minefield to prevent organ donation. I will explain briefly why I think that's the case.

Either I was approached with a card or I wasn't. Either I signed it or I didn't. Either I kept it in my pocket or I forgot it at home. Either I spoke with my family about my wishes or I didn't. Either the card was on me when I was in the traffic accident or it wasn't. Either hospital staff approached my family who were present in the hospital in a sensitive and appropriate manner or they didn't. Either my family was able to deal with their grief or they weren't. In other words, every step of the way is fraught with human error which could prevent my organ from being donated, because it's a system that's based on both random signing or non-signing of cards, no central registry, and dependent on the ultimate consent of surviving family members. Those three factors put healthy organs into the ground. Those are factors that put healthy, useful organs into the ground.

In public opinion surveys that have been done in Ontario, people express willingness to participate in organ donation. People support it. I'm saying that the system is designed to prevent it.

What I think has to be part of the system: The system has to have a registry. You can't do without a registry. There was mention here of an 800 number. There are probably 17 different ways one can express one's wishes on a registry, whether it's an opt-in system or an opt-out system. There has to be a registry.

In my view, the simplest thing to do is to have the registry linked up with the OHIP system. Why? Every

time I access the health system—and it's about three times a week these days: doctor, clinic, hospital—they ask me, "Is this still your number?" "Yes." "Do you still live at 123 Main Street?" "Yes." Every person I interact with is programmed to confirm my address. Why can't that same computer screen program them to ask me, "Are you still a donor or not"? That's all. "Are you still a donor or not"? Couldn't the same pop-up that says "Ask about address" say "Ask: Donor, yes or no? I think technically it would be quite simple, and that's whether you have an opt-in or an opt-out system. You need a registry for both because it has to be simple and transparent to take either step.

Of course, that same registry has to be linked up with the hospital, because in the hospital, when I'm on my deathbed and they're figuring out what to do with me, they're going to look at a few things about me. One of the things they can look at is "Donor, yes; donor, no," and that's a command.

I think it's important that if a person is "Donor, yes," there should be the possibility of family members to override that in some way, an affidavit saying, "He changed his mind last week," that kind of thing. But I don't want the system to be based on mandatory consent of the surviving family. In other words, my decision is a command to the system unless some procedure overrides it that preserves my wishes, ultimately.

That is basically it. I think we have to go toward a presumed consent model. I think that's the fairest and it's the bureaucratically least complicated. It's the least expensive, certainly. I think it would accomplish the wishes of the majority of people in Ontario, while preserving the individual liberty and autonomy to opt out.

The excellent contribution of Bill 67 is that it deals with the front end of the minefield. The front end of the minefield means, "Was I offered a donor card or was I not"?

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Bill 67 says you have to express your wishes, but it doesn't deal with all the problems down the road. We have to deal with those. Thank you.

The Chair: Thank you very much.

JOHN PARISEE

The Chair: Mr. John Parisee? Is that your correct surname, Parisee?

Mr. John Parisee: Parisee.

The Chair: Parisee. Welcome, Mr. Parisee.

Mr. Parisee: Thank you, and it's a privilege to be here, but you might not like to hear what I might have to say because I see some different issues on basic rights under our Charter of Rights.

The Chair: Well, let's find out. You've got 10 minutes.

Mr. Parisee: The basic concern here is that the mandatory, cohesive nature of the proposed amalgamated implementation of amending the Health Insurance Act and the Highway Traffic Act is a clear violation of our

basic human rights in that it implies that the residents of Ontario are the property of the state, and further, that the disposition of the organs of the deceased becomes the purview of the state, i.e., ownership of one's body is now transferred to the province.

This is truly a sad day for all the people of Ontario and implicitly for all Canadians if Bill 67 ever gets passed through the Legislative Assembly as a the private member's bill. Most of us here had grandfathers, fathers and uncles who fought in two world wars, allowing us to enjoy the freedoms and democracy we have today, which we stand to lose by the nature of this bill. We have our soldiers in Afghanistan right now fighting for the rights of Afghan people while ours here in Ontario are slowly, but surely, eroding. Maybe before we send any more troops to go fight over there, they should stop here in Ontario first for the democratic principles and basic human rights we are about to lose under Bill 67.

I would further like to commend Mr. Klees for bringing this important issue to the fore. Most people can empathize with the importance of this issue, and those who are waiting for organ donations so they can have some normalcy returned to their daily lives and reduce the heavy costs to our health care insurance for dialysis and other similar procedures.

A similar bill was brought before the assembly by Mr. Kormos a couple of years ago and was turned down as a rogue bill. Bill 67, as worded, shows clearly that the province is drifting into totalitarian and very non-Canadian solutions in its desire to be politically correct and do what appears to be the right thing.

Bill 67 has not taken into consideration all the mainstream religious faiths such as Jewish, Muslim, Hindu, Jehovah's Witness and many native faiths that believe that on death they must be buried with all their body parts and blood.

Bill 67 does not take into concern people infected with HIV/AIDS or hepatitis A, B and C, who in many cases don't even know they are infected. Then there are those who would not report other STD infections for many personal reasons. This is a preventable epidemic just waiting to happen.

Bill 67 does not take into account the great many people with cancer, not only those who are being or have been treated but those who may be in the early stages and are unaware of their condition. These people are generally not permitted to donate blood, and certainly their organs should not be available for transplantation.

On a more practical level, can someone please tell us why they want to merge parts of the Health Insurance Act with the Highway Traffic Act? Is this designed as a way of letting the health minister get his hands on more money? Look at the billions of dollars the province already hoovers out of the pockets of the public under the Highway Traffic Act from drivers' licence plates, off-road vehicles, fuel taxes and other hidden taxes and fees. We pay handsomely for this privilege, as it is. What will it cost us after Bill 67 is enacted?

Please consider that mandatory implementation of Bill 67 will lead to mandatory medical certificates. How else

can you ensure that the organs are fit for donation? How often will these medical certificates require renewal? I am certain that there is a cost involved here. Will this be added to the burden of OHIP or will this be added to the expense of anybody needing a driver's licence? Remember that drivers' licences are not a frill, but in most cases needed for work. This too will invite fraud by people desperate enough to get phony papers.

For many years now, we have been getting our organ donor renewal card with our driver's licence. As I explained above, there are many reasons why I don't sign it, not just apathy. For the same reason, the negative option has been rejected.

On a personal note, I never signed mine for a good reason. In 1965, I was involved in a serious car accident. I had the gift of donated blood. It kept me alive, and I am grateful. But as a result, I contracted hepatitis. As none of my organs are of any use for donation, it would not be ethical, and I would certainly not want to be responsible for giving it to somebody else. They would have a whole new set of health problems which I would not wish on my worst enemies. So if I was involved in a car accident or any other sort of accident that is going to be blended or merged or amended or combined or harmonized or whatever with the Health Insurance Act and the Highway Traffic Act, I would not want to be drained or dissected for any reason at all.

I know that under our Charter of Rights and Freedoms, we have no property rights. With Bill 67, is the province of Ontario extending its dominion over our most sacred possession, our body? Is Bill 67 saying that we have no rights to our own body parts? We will have to ask Mr. Harper to hurry up on one of the promises he made to give us our most fundamental property rights back. Our body parts are God-given possessions and not yet another means to a revenue stream for the province.

We've talked about how bad this plan is. Now let's talk about some other avenues that should be looked at seriously and put into effect by the health care act and the Minister of Health. They have to come up with a better solution for people who are waiting for transplants and get all-party agreement, like Mr. Kim Craitor did for grandparents' rights. Everybody will have to sit down, take a serious look and then pass a bill that will benefit everyone concerned on how organ transplants should compassionately be done here in Ontario. This could serve as a template for the rest of Canada.

(1) The Minister of Health should have a separate fund put in place to help a person who donates an organ, whether it's a brother, sister, cousin, friend or whoever, allowing them to take time off work, offsetting wages and the cost of medication required prior to the operation. This should be done for as long as needed after the surgery, until the doctor says they can return to normal activities. There should be a special tax incentive program in place for employers of organ donors to help cover the cost impact. There should be recognition for the compassion shown by the donor and those who made his or her donation possible. These are just the little acts

of appreciation that will encourage people to step forward and cut out those stumbling blocks that make people reluctant to help.

(2) This point may be a controversial one, but, in the big picture, it must be examined, as family and friends cannot supply the number of donations required: the purchase of organs from a compatible living provider. Suitable safeguards must be included to prevent abuse.

(a) The person buying the organ must cover all costs for themselves and the provider.

(b) The provider must have been a resident of Ontario for a minimum of five years and must supply all the verifiable records to prove that he was not brought in just for this procedure.

(c) The person buying the organ must pay all recovery costs of the provider until an arm's-length doctor, not directly involved, certifies that the provider is healthy enough for regular activity and the recipient is ensured that there are no complications, such as rejection.

(d) The provider or any of his family is not beholden to the recipient or any of his family and vice versa.

(e) The recipient must have an insurance policy in place to cover the loss of income or possibly life. Due to the possibility of complications, both parties must be free of any liability, and this must be assured before any procedure is done.

These are just some preliminary suggestions to solve a very complicated problem. I'm sure that if we all sat down together and put aside our personal and political agendas, we could come up with a positive solution for people waiting for organs.

Bill 67 is not the way to go on this issue. It is coercive and not very Canadian.

The way it stands, it's not really clear. When I tried to get information on the health act combined with the Highway Traffic Act, there is no clear indication of what they plan on doing.

If there are two million people with driver's licences, is the state, down the road, going to say, "We have to have you confirm that your organs are good enough for us to donate"? Because there is no sense in ripping the organs out of somebody who is not healthy enough to donate their organs and to pass their diseases on to the person they thought they were doing something good for.

There has to be an alternate solution; we're just not looking at it.

The Chair: You're four seconds over your time, so you're bang on. Thank you.

PATTI GILCHRIST

The Chair: Patti Gilchrist. Welcome, Ms. Gilchrist and Mr. Gilchrist.

Mr. Steve Gilchrist: Mr. Chair, Madam Clerk, former colleagues or new members, I'm here just as moral support for the bravest young lady I've ever met.

The Chair: Brave young lady, you have 10 minutes to show us how brave you are.

Ms. Patti Gilchrist: Thank you for this opportunity to speak in support of Bill 67 and to offer a first-hand perspective on the importance of organ donation and to link that support with the outstanding competence and professionalism of those marvellous people, our doctors and nurses.

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We are all familiar with the Hollywood expression "dead man walking." Well, thanks to the generosity of a thoughtful donor and family, I appear here before you today, living woman walking, talking and enjoying life, and doing so in a way that would have been impossible without a crucial and life-saving heart transplant.

Twenty-one years ago I was diagnosed with a virus called myocarditis, an ailment that proves fatal in 95% of the people who contract it. To make you aware of the terrible incapacity, the emotions a person goes through—the anguish, the fear, the hope, the despair—and to inspire your undoubted compassion to support this worthy legislation, I will give you a brief, personal story.

In 1986, I found myself feeling ill, dizzy, suffering from blackouts and shortness of breath. I was taken to hospital and had to stay for a month on medication to stop the inflammation from around my heart. I was forced to rest at home for six months with no driving, no working and no strenuous activity of any kind.

By 1995, my damaged and extremely enlarged heart had deteriorated into congestive heart failure. I lived with that for five years. I was in and out of hospital, getting intravenous Lasix drips to reduce the inflammation around my heart.

In December 2000, I had a stroke. I was in a grocery store with my two kids, who thought I was just joking around until I dropped to the floor. At that point, I was partially paralyzed on my right side and couldn't talk. I was rushed to Cobourg hospital, and afterwards had barely started to recover and get some movement back when it happened again.

This time I was rushed to Toronto Western Hospital, where a caring and attentive group of doctors and nurses were waiting to perform a series of tests on me. It was at that time the doctors decided to put me on the heart transplant list. From there it was a question of downhill survival, requiring me to wait to undergo a heart transplant, if a heart became available. Seven long months later, on December 30, 2001, a phone call came at 3 o'clock in the morning and a voice said, "We have a heart for you."

With only three hours to get to surgery, I was rushed to Toronto General, where I received my new heart. Unfortunately, rejection was immediate. My heart had to go through three blood washings, and I began a critical 48-hour intensively monitored waiting period. The doctors had told my family that if I survived this period, I would possibly be okay. As it turned out, I was forced to stay in the cardiovascular intensive care unit and was intubated for two weeks. When I finally got to a regular hospital floor to start recovery, I found that I was partially paralyzed because my muscles had atrophied.

I was in Toronto General for over a month and then sent to St John's Rehabilitation Hospital, where I spent three more weeks learning to walk and use my upper body again. It was the toughest thing I have ever done.

What a miraculous turnaround to a person's life, all brought about by the most extraordinary gift a person could ever receive. Words fail. Compassionate? Generous? Unselfish? Magnanimous? How could I ever hope to describe my feelings of gratitude to my unknown, kind and caring benefactor?

Because of the generosity of this donor, of his or her family, I now get to watch my kids grow up and to spend time with my loving family and devoted friends. Experiences like mine make us realize just how much we love and depend on the people who are our biggest supporters: in my case, my mom and dad, Pat and Gord; my daughter Dallas; my son Dakota; my sister Peggy; my nephews Craig and Stevie; and my wonderful brother and your friend, Steven Gilchrist.

I also get to enjoy my neighbours and best friends, Margaret and Steve Tallon, and their kids, all of whom I love very much and who went far beyond simple friendship to be of immense help both before and after my transplant.

Every day, my overly concerned parents would drive over 100 kilometres to Toronto General to sit with me. The aftermath of my operation was a combination of medication-induced sleep or, during my waking hours, considerable pain and almost no ability to communicate. Still, there they sat, hour after hour, talking to me to keep me company. The first couple of nights, in order to stay as close as possible to the hospital, they slept on my brother's office floor and couch here at Queen's Park. I can't thank them enough for the love and support they showed to me and my children during those anxious days.

My brother Steve would visit me every afternoon or evening as well. He too would sit there with me even if I couldn't talk to him. My sister took my two worried kids into her home and made sure that they were well looked after and got to school every day.

My best friend, Margaret, also pitched in wonderfully. She took great care of both me and my kids before and after the transplant. She made sure I had groceries, that my house was clean, that my laundry was done, and ran hundreds of errands. Margaret and her husband, Steve, made my house into a virtual bungalow—everything on one floor—because I couldn't climb stairs. Margaret would stay with me until I went to sleep at night, just to keep me company. I am truly blessed to have such a wonderful family and such wonderful friends.

This past December, I turned five. I am now looking forward to the next five years. In 2011, I will receive a 10-year pin.

During the first year after my transplant, I had to undertake weekly biopsies, then every two weeks, then every month, finally every three months and every six months, and I showed rejection. I have gone in and out of mild rejection several times in the last five years, all

controlled and regulated by many different pills. It has been nine months since the last rejection, and if I don't have any rejection in my next six-month biopsy, I may never have to have another one again. How amazing.

The punchline to this story is that now, five years later, after an almost hopeless future, I have been rejection-free for nine months. I am healthier now than I was 21 years ago, and although I tire easily if I do too much, I'm able to lead an active and fulfilling life. All of this is because of one donor who had the compassion, the generosity and the humanity to offer the gift of life with his or her heart to a stranger.

I believe that's what Bill 67 is all about. It is here to help many people, your friends and my friends and neighbours, to continue their useful lives with their loved ones. I am grateful beyond words for my gift, and I will always be mindful of the pain the donor's family must have suffered that fateful night five years ago.

What does trouble me is that many of the people I met while I was on the waiting list for a replacement heart did not live long enough to experience the same life-saving operation I received. My doctors tell me that only a small fraction of those who need a heart or kidneys or lungs or other organs get them, and that hundreds of Ontarians die needlessly every year because there are simply not enough organ donors.

So I want to extend a grateful thanks to Mr. Klees for bringing forward the same kind of legislation my brother introduced five years ago in this House, after he had seen, first-hand and personally, the wonderful benefits that organ donation can have. Steven told me that his biggest disappointment in his eight years at Queen's Park was that his Bill 17 did not receive the necessary and compassionate, life-saving, unanimous consent. While five years and many lives may have been lost, it is clearly a case of better now than never.

I believe it is entirely reasonable to ask people to answer "yes" or "no" as to whether they wish to be organ donors when they complete an application for a driver's licence or health card. And it is just as important that the organ donor's personal wishes be respected. No other family member should have the right to overturn the decision and generous wishes of a would-be donor. By making these simple rules, I believe there will be a dramatic increase in the number of donors, a shorter waiting period for donations, a shortening of the anguish of waiting, and more Ontarians able to quickly return to productive and healthy lives.

Ladies and gentlemen, thank you once again for this opportunity to share my story with you and to speak out very strongly in support of Bill 67. May your compassion govern your actions and inspire your support of this worthy legislation.

The Chair: Your brother described you well.

We have about two minutes, Mr. Klees. I'm going to give the two minutes to you.

Mr. Klees: Patti, I want to thank you for sharing that story and for putting real meaning to what otherwise is just another piece of legislation. I remember Steve

battling through this with you. I also remember him bringing forward his bill, and I remember the very sad day in this Legislature when unfortunately, for nothing other than political reasons, we didn't get that unanimous consent. In the same way that Steve no doubt feels that probably in his eight years here that was the greatest disappointment, I would feel that, if this government saw fit to set aside everything except the principle of doing the right thing, to see this bill pass would probably be the best thing that has happened in my 12 years here.

I think everyone recognizes that this is not a silver bullet. This is not the end-all and be-all. We're not suggesting that this is the answer. We've heard from even you today that what we really need is to ensure that the wishes of an individual are totally respected, that they can't be overturned. I agree with you, and I think that's an important next step that we have to take as a government as well.

I wish you well. I thank you for being here. When this bill passes, I want to dedicate it to you.

Ms. Gilchrist: Thank you very much. Thank you for the opportunity.

Mr. Klees: Steve, thank you for being here.

Mr. Gilchrist: Thank you all.

Not in any way to attempt to embellish what my sister has so ably said, but this really is a non-partisan issue. I don't know how you could read politics into this. I wish it had not been that my family had gone through an experience that allowed me to have that perspective, but it did, and I hope you never have to go through that. But the responsibility we all share, government and opposition, is always to do what's in the greatest good. I really can't see any reason why this piece of legislation would not be seen as a reasonable and modest step forward towards that goal of a more complete organ donation system.

With that, thank you, Mr. Chair.

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The Chair: Patti, the last 20 seconds to you. You have 20 seconds if you want to offer anything else.

Ms. Gilchrist: I just think it's a very important and worthy cause. I wouldn't be here today if it wasn't for the donor I received a heart from. I watched a friend of mine who received a double lung transplant who also wouldn't be here if it wasn't for that. It just makes for a new life. I can now watch my kids grow up and spend time with them, which I wouldn't have had a chance to do.

The Chair: Thanks for sharing your story.

THE CANADIAN FEDERATION OF UNIVERSITY WOMEN/ONTARIO COUNCIL

The Chair: The Canadian Federation of University Women Ontario Council. Welcome, Elaine. Please state your name for the record and then share your views with us.

Ms. M. Elaine Harvey: My name is M. Elaine Harvey. I'm the chair of the legislation standing com-

mittee of the Canadian Federation of University Women Ontario Council.

Mr. Chairperson, members of the standing committee on the Legislative Assembly, presenters and guests, it's an honour to stand before you. I thank you for providing the opportunity for me to make an oral presentation before this committee.

I understand from the April 10, 2007, news release of Mr. Frank Klees, MPP for Oak Ridges, that Bill 67 has received all-party agreement for these public hearings. This is democracy at its best, with the parties in agreement that public hearings be held and with the opportunity for constituents to provide input not only at this committee meeting but also in the public fora that have already been held in numerous locations around the province. I had the privilege of attending the one held in Kingston.

Now, I do apologize. I do have one copy of what I'm reading here but I don't have copies for the members. What you have received, though, is a copy of the letter that Mr. Klees referred to in his introduction that was sent to the Premier and to other people, including Mr. Klees.

I'd like to point out, though, that in Mr. Klees's enthusiasm for this bill and its potential for saving lives, we must excuse him for misreading the letter from my organization. If you look at the beginning of paragraph 3, it says that, "what the application allows for"—according to Hansard, from Mr. Klees—"is a yes, a no or an undecided," but "the option to say 'no' is not included in the bill." It's not the option to say "undecided" but the option to say "no." Certainly, that can be excused, but it's important to recognize that, particularly in view of the clause-by-clause discussion next week.

CFUW Ontario Council is not opposed to increasing organ donations. In fact, our national organization has a policy entitled Organ and Tissue Donation Awareness in Canada, adopted in 2002.

I might just say that I live in Kingston, and when I picked up the Kingston Whig-Standard this morning there was a headline on an inside page saying, "Organ Donation Refused." I wondered what that was all about, and then I saw a picture of a large theatre organ that they wanted to find a home for and they hadn't found a home for it.

What our organization is vitally concerned about with the proposed Bill 67, Organ and Tissue Donation Mandatory Declaration Act, are three things:

(1) the limitation of choices in the proposed declaration;

(2) the limitations in soliciting public opinion and the subsequent conclusions that may arise;

(3) the potential for seriously increasing the cost of health care in Ontario.

First, I will consider the limitation of choices in the proposed declaration. As you know, the bill at this stage requires any person applying for or renewing a driver's licence or health card to make a declaration on donating their own organs and tissue when they die. But only two

choices are offered: Yes, they are willing, or they haven't decided yet. The declaration does not provide for the option to say no. One must choose either to agree that one's organs be donated or declare that he or she has not yet made a decision. Without making such a declaration, the individual will be denied the driver's licence or health card that is being applied for. To deny a citizen either of these cards can and likely will involve severe hardship for that person. Is not this too severe a penalty for refusing to donate one's organs on death?

For the "no" option to be denied, I assert, is an infringement on the human rights of the individual to declare his own wishes regarding this aspect of his death if he or she wants a driver's licence or health card.

There is one other option for that individual, but it is equally unpalatable. That person could make a false declaration by affirming that they haven't decided yet. This is the only other option available under the present bill. So this legislation will be either an infringement on human rights for those who believe in keeping the body whole after death or it will be an invitation to the individual to declare an untruth on a legal document by declaring that he or she has not decided yet when, in fact, the decision has already been made to deny the removal of body parts. In other words, this legislation would either deny the human rights of that individual or encourage him to break the law by declaring an untruth on a legal document.

Even though those attending the public forum on this bill in Kingston were told otherwise, some people would oppose making organ or tissue donations for themselves due to religious or faith reasons. We were told that there are no religions that oppose organ donations. In fact, Bill 33, the Education Amendment Act (Organ Donation Education), exempts students from education on the importance of organ donations on the basis of religious belief, cultural beliefs or prohibitions and similar reasons. In addition, I have had assurances from both Buddhists and Muslims that many who adhere to these faiths would not want their body parts or tissue donated at the time of death. There are those who believe that the extracting of organs from an individual interferes with the departing of the spirit from the body, and they believe this is a significant part of the living and dying process.

With the cultural diversity of present-day Ontario, the government should be very sensitive to the cultural beliefs and practices of those of diverse ethnic and religious origins so that their rights are respected. Some would be concerned with the quality of the afterlife of one whose organs had been removed at death. Some would not agree with the medical definition of death that is used when organs are cut out. So this bill, as it stands, would contravene religious and personal freedoms.

Recommendation: I propose, then, that a third option be included in the bill that would allow individuals to select "no" as an option when asked if they wish to donate their organs upon death. The bill at present, as provided on the website of the Legislative Assembly, does not provide this option.

I will now consider the limitations in soliciting public opinion and the subsequent conclusions that may arise. I commend you for soliciting public opinion in the form of an online questionnaire and providing public fora at which hard copies of the questionnaire were provided. However, I have concerns about the questionnaire because it completely discounts individuals who hold beliefs that oppose the harvesting of human parts at the time of death and provides a limited choice of answers.

1720

For those who, as an act of faith, believe in keeping the dying and dead body whole, how do they answer question 3 of the questionnaire, which is: Have you advised your next of kin or designated executor about your wish to donate organs upon your death? These people do not agree with the assumption implicit in the question that the responder agrees to donate his or her organs.

How do they answer question 5: Do you have concerns about barriers to personal organ donation? Those people may be concerned that there are not enough barriers, just the opposite of what the questionnaire expected.

Question 12: Is there anything else you would like to say about increasing organ donations? How can individuals speak about increasing organ donations when they are totally opposed to them? I believe this question is meant to solicit any response not provided by the questionnaire, but it limits the answers to those who support organ donations for themselves.

The online questionnaire would not allow a person to continue to a succeeding page of questions without answering all the questions on the present page. So to read the whole questionnaire, one had to answer questions for which they had no answer, due primarily to the preconceived assumptions of those questions, but also to the limited choice of answers.

When I went through and did the questionnaire myself, I actually faked some of my answers because there was no proper answer that I could give and I did want to read all of the questionnaire.

The questionnaire is seriously flawed because the questions assume that the respondent agrees with organ transplants. Responders who oppose donating their own body parts would, without intention, skew the results of the survey to the extent that the validity of those results must be suspect. Others who oppose would not complete the questionnaire. Any conclusions reached from the data collected would be skewed because of the exclusion of those who do not agree with donating body parts.

In addition—

The Chair: Can you wrap up, please? You're about two minutes over already.

Ms. Harvey: I'm sorry?

The Chair: Can you wrap up? You're two minutes over already.

Ms. Harvey: Oh, dear. All right.

The other thing I want to point out is that the potential for seriously increasing the cost of health care in Ontario is there. There is the ever-ballooning cost of our health system for which we seem to find no bounds. The cost of

the operations, of all the medical procedures that are involved in harvesting organs and in transplanting them, is something that I would like to know, whether there has been any costing done.

The Chair: Thank you.

Ms. Harvey: I urge you to include the “no” option in the declaration, and to keep in mind that the data collected was skewed in such a way that the voices of those not wanting their own body parts donated were severely silenced.

I would like to see some costing of the procedures that would be involved with the addition of these organs. I know there is some saving in this, but I think there could be a much higher expense there.

Thank you very much.

The Chair: We appreciate those good points. Thank you.

Mr. Klees: Chair, with your indulgence, I just want to clarify that in fact it is the “no” option that will be included in the amendment, as you’ve requested.

Ms. Harvey: Thank you.

The Chair: You had stated that earlier and you’ve restated it. Thank you very much.

Thank you, presenter.

CAMPAIGN LIFE COALITION

The Chair: Campaign Life Coalition. Needless to say, we will extend your time a little beyond so that you get your full 10 minutes as well. I’ve been a little lax as Chair. When you have a minute left, I’ll just tap the hammer.

Mr. Dan Di Rocco: Thank you. I’m looking for Dr. Shea to join me here at the desk. My name is Dan Di Rocco.

Campaign Life Coalition is in favour of organ donation which does not end the life of the donor. The need for kidney and liver transplants, for example, is great and individuals can donate these organs without jeopardizing their lives. We recognize this truly as an act of sacrifice and kindness. However, we consider the present proposal, Bill 67, as unacceptable for a number of reasons.

This proposed legislation compels all people to make a decision about an important matter. Coupling the declaration with a driver’s licence renewal, for example, is bad timing. It takes a totally bureaucratic piece of paper called a driver’s licence and attaches to it a whole set of values. People should be able to think seriously about what they want done or not done with their organs. It is not the prerogative of the government to coerce the decision in any way or to force people into making any decision on the issue.

Some of our concerns have to do with definitions, phraseology and technical wording. I’ll only address a couple of these. The wording seems to presume only the use, not the non-use, of the organ or tissue. Where is the simple response of “No, you may not use my organs or tissue”? And you’ve already answered that, Mr. Klees. Thank you.

The opt-out category of “undecided” does not take into account other possible objections such that other options should be recommended for consideration, such as “I object” or “I fundamentally disagree with the provision of my human tissue being transplanted or subject to another use or used for research after my death.”

What is meant by “uses”? Who decides on the “uses”? Is the declaration to be inclusive or exclusive? Does it specifically permit the individual to refuse any and all use of their organs or tissue? We’re not legal experts, but the wording of subsection 11(5) is troubling. People would become organ or tissue donors automatically, by default, because they failed to indicate otherwise. A person’s consent to some action should never be presumed. Any action would be valid only if such consent were expressly stated and freely given.

The question about the person being undecided has already been dealt with by other people, but we find that troubling as well.

A couple of other questions: Would the quality or availability of health care be dependent on whether the patient had or had not made a declaration donating his organs or tissue? Would the quality of care that an individual receives before death alter in any way once a person has committed to donating his or her organs or tissue?

In conclusion, all residents of Ontario currently enjoy the freedom to donate their organs or tissue by so indicating in writing. Whether it is recorded on a driver’s licence, health card or the existing donor card of the Trillium Gift of Life Network, the central registration program should be enhanced, but only on a voluntary basis. What has been considered a generous, conscious act of charity and selflessness in the past would be transformed into a coerced duty, a new social expectation. Most jurisdictions have adopted the strictly voluntary approach. The onus should remain on the individual to take the step of declaring himself or herself as a donor of their organs or tissues.

The proposed amendment is discriminatory and statist by coupling a civil privilege and a basic right to something that is otherwise unrelated. We have set up health coverage and driving privileges for citizens as part of the movement toward social welfare and utility. The suggestion that a citizen will be required to state on a licence renewal form or health card application what he or she will do with one’s organs is a rather drastic intrusion into one’s personal autonomy. The government would be placing unfair and odious conditions on a customary privilege or right to health care, perhaps endangering the security of the person guaranteed by the Charter of Rights and Freedoms.

In summary, this type of legislation is not necessary. It is dangerous and open to abuse. Its practical goals could be achieved through less intrusive, less dictatorial and more cost-effective means. The legislation constitutes an unwarranted intrusion by government into the private affairs of people. There are also medical and ethical concerns that would be exacerbated by commercial pressures to gain access to organs and human tissue.

1730

Dr. John Shea: Human organs are retrieved after a person is declared by a physician to be brain-dead or to have suffered cardiopulmonary death, also known as cardiac death. In truth, neither brain death nor cardiac death are equivalent to actual death.

First, brain death: In 1968, the Harvard ad hoc committee on irreversible coma stated that brain death, the irreversible loss of brain function, should be regarded as death because a patient in an irreversible coma is—and these are their words—for all practical purposes, if not in reality, dead. This oxymoron has caused confusion ever since. The truth is that although most persons who are declared brain-dead will die within 48 hours, some survive to lead a normal life. Some brain-dead pregnant women have survived for up to four months and delivered a normal child. I personally know a physician who has survived brain death.

Cardiac death: This concept was introduced in Pittsburgh in 1993. The Institute of Medicine describes a typical case: A person five to 55 years old, otherwise in perfect health, suffers a brain injury, either in an accident or from a stroke. Typically, this person is put on a ventilator to assist breathing, is in a coma and is sent either to an emergency department or an intensive care unit in a hospital. There, a physician decides as soon as possible, so that the organs may not be damaged by lack of oxygen, and completely arbitrarily that the treatment is futile and the patient's condition is hopeless. The relatives are told this and are asked to consent to withdrawal of ventilatory support. Only after obtaining that consent are they asked to agree to organ donation. The physicians wait until the heart stops beating. Five minutes later, they retrieve the organs. Some wait only two minutes. Some, like a hospital in Denver, wait 75 seconds. After the decision is made to allow organ retrieval, which may be long before the heart stops beating, some physicians inject the patient with blood thinners and dilators to help preserve the organs, even though this would seriously harm any other patient. If the heart does not stop beating within an hour, the organs are regarded as being too damaged by lack of oxygen and the patient is allowed to die without any effort at resuscitation.

A patient who has suffered brain injury may die, may recover completely or may recover with a varying degree of brain damage. No one can, especially in the early stages, truly know what the outcome for the patient will be. The most egregious aspect of cardiac-death organ retrieval is that the withdrawal of ventilation is the prime cause of the patient's death. This death is not due directly to disease or accident, but due to the deliberate act of a physician who knows in advance that he or she may cause that death.

I have appendix A and appendix B, which are two articles I have written with 26 scientific references, in which you can check this out.

Mr. Di Rocco: We recognize and appreciate the need for increasing organ and tissue donation, but this legislation is not necessary. This particular legislation is flawed. It represents a massive intrusion by government

into private matters, it is coercive in nature, it mixes apples and oranges, it appears to support a strictly utilitarian view of the human person, and there are medical and ethical concerns. There are better ways of achieving the goal of increased organ and tissue donation rates.

The Chair: Thank you so much.

SUSAN SMITH

The Chair: Susan Smith is our final presenter.

Ms. Susan Smith: Good afternoon. I want to thank the committee very much for this opportunity. I apologize for being here without my prepared copy. Actually, what I have, which I would like to leave with the clerk as an appendix, is a copy of a piece of research, a protocol being done in London, Ontario, where I come from, with respect to donation of a particular bodily fluid, just for reference as background for the committee, for you to have that. So without my notes, my comments will be very brief.

The largest flaw I see with this bill—I hope this will be taken as a constructive suggestion, Mr. Klees. I think the application for a driver's permit, actually the first application for a graduated driver's permit, is absolutely the most appropriate document to be used to solicit thoughtfulness in consideration of the issue and a deliberate response from Ontarians. I don't see the health card the same way, and I'll try to put it in context. But I certainly feel that the application for a driver's permit is the correct document to use. I would just parenthetically add that I would hope that hard-copy application would always be available for either re-applying for a driver's permit, for renewing it, or for an initial application and that it not only be done electronically online.

My perspective on why the driver's licence—and I'm certainly suggesting, as you go forward with this, that it be a staged thing and that it be implemented for driver's permits first without trying it on the health cards. I think the fine for not doing up your seatbelt still is something in the area of just \$1,000; it might even be less than that. The kinds of fines that we have for impaired driving charges, upon conviction—to put that in context on the totally preventable side, we're not doing enough with the sticks, if you will, instead of the carrots, for eliciting responsible behaviour around motor vehicle use, which is exactly why I see this bill in the appropriate context with driver's permits for both renewal and for initial application for a permit. Because it is a permit. I don't see it as a licence. That might be the terminology used, but it's actually a permit based on proof of eligibility and on-going behaviours that indicate a renewal is in order.

One aspect, though, of the driver's licence—I've heard Minister Cansfield refer to what's coming down the line for a new driver's permit format, for—I don't know if it bears any relation to what the American permit will look like—ease of border crossing and that kind of thing. So if there are areas or issues of security, of protection either of Ontarians' information, identity or any other kind of bodily integrity, I would hope that that would be looked at very carefully.

From the comments that I've heard from other presenters, certainly people have fixed on what isn't in this iteration of the bill, wanting the "no" option. My only comment that I will make about that, I suppose, is somewhat anecdotal. I come from London, Ontario. To the best of my knowledge, Dr. Bill Wall, who is a transplant surgeon at University Hospital, is doing a transplant today. In recent months, within the last 12 months, congestive heart failure has been reconsidered medically, within the protocols, as now being a factor in which an organ can be taken. There have been some studies that looked at whether someone's congestive heart failure admission to a hospital on a weekend as opposed to a weekday was an issue in either certain types of treatment in situ or actual survival for a short period of time.

1740

Beyond that, my question—because you get to ask me questions—very seriously is: To what extent has this bill been thoroughly cross-referenced by your researchers with Bill 171? That's a really large document. It has got a lot of detail in it. It's an omnibus bill, so I would ask you to really think about that carefully, as you look at the shorter number of pages of this bill and the proposals that come forward, but just making sure that you're looking at Bill 171 in its entirety and reflecting through every piece of how you are staging this legislation.

Those are my comments. Thanks.

The Chair: Thank you very much. We have four minutes: two minutes for the government side and two minutes for the opposition side. Does anybody on the government side have a question?

Mr. Kular: Am I answering her question?

The Chair: No, you don't have to answer her question; it was a research question. But do you have a question? You can answer her question if you want, but I think it was more referenced to research. Do you have a question?

Mr. Kular: No.

The Chair: Okay. We'll go to the opposition side.

Mr. Klees: Thank you so much for your presentation. I'll try to answer your question of whether this has been referenced to Bill 171. We're trying to figure out Bill 171. This bill, as you point out, is really very, very straightforward. It's essentially a one-pager and it is really only an administrative measure. It doesn't deal with many of the other issues that were raised here in terms of how the organs are harvested or at what point in death. We're dealing strictly with an administrative measure here that's intended to give individuals in the province of Ontario an opportunity to consider the issue of organ donation. There's no intention at all of forcing a

decision, which is why the options of "yes," "no" or "undecided" are provided, because if someone is uncertain, they simply need to tick off the "undecided" box on the question.

I am appreciative of a number of the issues that were raised today. It's something that obviously we have to consider further. I think we tend to make the very simple proposal here that is contained in this bill perhaps something more complex. The government will have to deal with all of those other issues, and it will. We've got 26 recommendations that came forward out of the citizens' panel that was commissioned by the Minister of Health. A lot of those recommendations deal with many of these other circumstances.

This bill does not go into any of that discussion. It is simply asking the government to provide a facility on both of those cards, to give people an opportunity to consider it and to raise awareness. The objective is that at the end of the day, with more people who actually take the time to think of it and hopefully make the "yes" decision, the result will be more availability of organs for transplant, with the end result that lives will be saved.

We'll see what happens as the process for this bill continues, but I'm certainly hopeful that we can and will be able, as a committee, to focus on the intent of the bill and not allow a lot of these complexities that will have to be dealt with in other legislation to keep us from at least making this important step forward.

I want to thank all of the presenters today. You have raised very important issues.

The Chair: Indeed, yes. Thank you.

The last 30 seconds are to you, Ms. Smith.

Ms. Smith: I'd like to underscore as clearly as possible the degree that I see this as appropriate on the driver's permit. I see it as not appropriate on the health card.

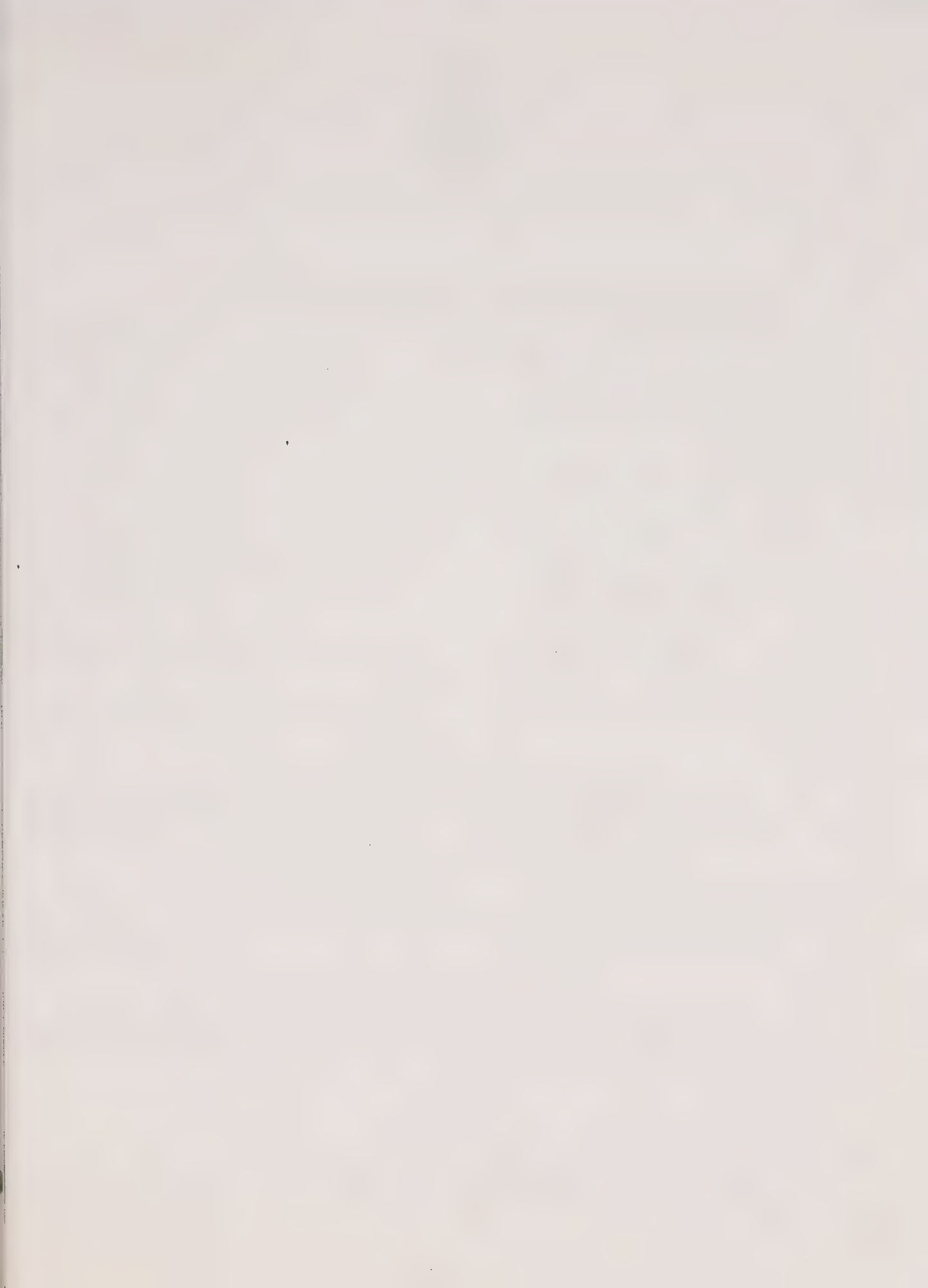
The Chair: So noted. Thank you very much for your presentation.

Members of the committee, we will reconvene next Thursday morning to go through public hearings on Bill 164, the next piece of legislation this committee is looking at, and come back at 4 o'clock to do clause-by-clause consideration of Mr. Klees's bill, which we had public hearings on today.

For administrative purposes, the clerk points out to me that proposed amendments should be filed with the clerk of the committee—that's for Mr. Klees's bill—by 6 p.m. on Tuesday, April 24. Everyone has noted that?

The meeting's adjourned. Thank you.

The committee adjourned at 1745.



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Official Report of Debates (Hansard)

Thursday 26 April 2007

Journal des débats (Hansard)

Jeudi 26 avril 2007

Standing committee on the Legislative Assembly

Community Right to Know Act
(Disclosure of Toxins
and Pollutants), 2007

Organ and Tissue Donation
Mandatory Declaration Act, 2007

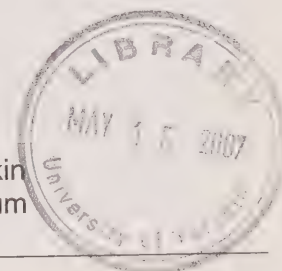
Comité permanent de l'Assemblée législative

Loi de 2007 sur le droit du public
d'être informé (divulgaration des
toxines et des polluants)

Loi de 2007 exigeant
une déclaration au sujet
du don d'organes et de tissu

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 26 April 2007

Jeudi 26 avril 2007

*The committee met at 0934 in committee room 230.*COMMUNITY RIGHT TO KNOW ACT
(DISCLOSURE OF TOXINS
AND POLLUTANTS), 2007LOI DE 2007 SUR LE DROIT DU PUBLIC
D'ÊTRE INFORMÉ (DIVULGATION DES
TOXINES ET DES POLLUANTS)

Consideration of Bill 164, An Act to amend the Consumer Protection Act, 2002, the Environmental Protection Act and the Occupational Health and Safety Act / Projet de loi 164, Loi modifiant la Loi de 2002 sur la protection du consommateur, la Loi sur la protection de l'environnement et la Loi sur la santé et la sécurité au travail.

The Clerk Pro Tem (Ms. Susan Sourial): Honourable members, I'm calling the meeting to order. We need to elect an Acting Chair. Are there any nominations?

Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh): I would like to nominate Ms. Mossop as the Acting Chair.

The Clerk Pro Tem: Mr. Brownell has nominated Ms. Mossop. Any other nominations? Seeing none, the nomination is closed and Ms. Mossop is Acting Chair.

The Acting Chair (Ms. Jennifer Mossop): Good morning, everyone. It behooves me to just let you know that we're on a very tight schedule this morning and we want to accommodate as many people as possible. So we will be moving swiftly through. As you already know, there are 10 minutes allotted for each presentation.

ENVIRONMENTAL DEFENCE

The Acting Chair: Is the Environmental Defence group available? Great. Come on in. Take a seat. Just so that you know the rules of the road, and you probably do already, you have 10 minutes for your presentation. If you don't use all of the time, then we will use that time for questions. Please state your name for Hansard.

Mr. Aaron Freeman: My name is Aaron Freeman. I'm the policy director with Environmental Defence. I'll try to take you up on your bargain to leave more time for questions and answers.

I'd like to thank the committee and the Chair for the opportunity to address Bill 164. Environmental Defence strongly supports this legislation, which will fill a key

gap in citizens' right to know about the health and environmental impacts of pollution. My remarks will focus on the bill's ability to inform Ontario residents about pollution releases as well as the toxic chemicals found in everyday products.

Environmental Defence, through our Toxic Nation program, which is www.toxicnation.ca, has conducted some of the only testing in Canada of toxic chemicals in people's bodies. We tested families, ordinary Canadians and high-profile celebrities and elected leaders, including the federal ministers of environment and health, and we're currently testing the party leaders of the three major parties in Ontario.

The chemicals we test for are found in products that we use and consume every day. We test for pesticides found in food; brominated flame retardants found in computers, mattresses and clothing; PCBs found in solvents and industrial machinery; perfluorinated compounds found in stain repellents and non-stick cookware; phthalates found in nail polish, children's toys and blood bags; and metals like lead, cadmium and mercury found in the air we breathe.

Some of our findings would be instructive and highlight the need for Bill 164. In one of our studies, the study we conducted on families, if you look across that and the other studies that we've conducted, there were 54 carcinogens found as well as 37 hormone disruptors, 21 respiratory toxins, 53 reproductive and developmental toxins and 33 neurotoxins. In some cases, these chemicals were found at levels that we know are unsafe. For example, David Mast, the chief of the Whapmagoostui First Nation, had mercury levels that were 2.5 times the "alert level" established by toxicology labs.

From generation to generation, levels of certain chemicals that we've taken regulatory action on, like PCBs, are going down. We found lower levels of these substances in children than in their parents. But for persistent and bio-accumulative chemicals that we have yet to take meaningful action on—these are things like brominated flame retardants and perfluorinated compounds—we found higher levels in children than in their parents.

Bill 164 is based on a citizen's right to know. Other jurisdictions, including California, Vermont and Europe, have comparable legislation because these jurisdictions have recognized that with the variety and high levels of pollution in our bodies, citizens have a right to know who is producing this pollution, and where.

In order to make informed policy decisions on pollution, we need to know where it's coming from. Without the disclosure provisions in Bill 164, we will be blind to many of the sources of pollution while still having to deal with the effects in terms of increased rates of disease and death, and the economic costs to our health care system as well as from worker absenteeism.

Environmental Defence is a co-founder of the PollutionWatch campaign. Through our website www.pollutionwatch.org, we track pollution in Canada right down to the neighbourhood level. People can enter their postal codes and find out where the point sources are, near their homes, of pollution in Canada.

Currently in Canada, the only pollution disclosure system we have is the National Pollutant Release Inventory. While the NPRI provides a much-needed level of reporting, it only tracks 321 chemicals, and many carcinogens are not included on this list. In addition, NPRI deals only with large facilities, those that release more than 10 tons per year and employ more than 10 people. What this means is that in Toronto, for example, only 3% of the facilities that handle toxic chemicals report to the NPRI.

The small and medium-sized facilities that are left out of NPRI account for a huge portion of pollution. To take just one slice of this sector, according to the US Environmental Protection Agency, 35% of air pollution comes from auto body shops, dry cleaners, printers and small factories. In Canada, virtually none of these facilities report under the NPRI, despite that fact that IARC specifically lists many of these activities under the "Exposure Circumstances" for known, possible and probable carcinogens.

Bill 164 is badly needed in Ontario. It will allow governments, businesses and individual citizens to make more informed decisions about avoiding toxic chemicals. But, even more important, it's about our right to know. Thank you very much.

0940

The Chair (Mr. Ted McMeekin): Thank you very much. We got started about three minutes late. I apologize for being three minutes late. But thank you to Ms. Mossop for getting us kicked off here.

We have about three minutes. Why don't we start with Mr. Tabuns.

Mr. Peter Tabuns (Toronto-Danforth): Aaron, thank you very much for the presentation. In the United States, proposition 65 carries forward many of the things that we want done in this legislation. Can you tell us how effective proposition 65 has been in terms of getting cancer-causing chemicals out of consumer products?

Mr. Freeman: I should mention one other thing, which is that my remarks today are available from the clerk.

Proposition 65 in California has a similar structure to Bill 164. It has had a tremendous impact, not only in terms of giving consumers information that they need about the products they're buying off the shelf, but it's also had a deterrent value. Manufacturers and retailers

who sell products to consumers have made decisions based on that law, in effect to have safer products on the shelf. So rather than having to label products as containing carcinogens, they prefer to market other products or to take those carcinogens out of their products. So that's had a tremendous impact, not only in terms of informed consumer choice but also in terms of affecting the market itself in getting cleaner products onto the shelves.

The Chair: Thanks very much, Mr. Freeman.

TORONTO CANCER PREVENTION COALITION

The Chair: We'll go right to the next speaker, the Environmental Health Clinic—Nancy Bradshaw. I'll just explain that we're going to try to catch up because by regulation we have to be out of here by 12 for two votes on private members' legislation. So please come forward, Ms. Bradshaw.

Ms. Nancy Bradshaw: Today I'm actually representing the occupational and environmental working group of the Toronto Cancer Prevention Coalition, of which I am co-chair. I'm just going to read this.

The Toronto Cancer Prevention Coalition's occupational and environmental working group urges the Legislature to adopt Bill 164, also known as the Community Right to Know Act.

Bill 164 will help to ensure that members of the public have access to information on carcinogens and other toxins that are present in consumer products and in Ontario's air, water and soil through labelling commercial goods or services that contain a known or suspected carcinogen and ensuring Ontario residents have access to a comprehensive provincial pollution inventory.

With the growing evidence and public concern about global warming and the increasing amount of toxic chemicals in our air, water and soil, Ontarians are asking for their government to take action to improve the environment and create healthier communities for themselves and their children. In a poll by the Globe and Mail and CTV news taken earlier this year, Canadians said that the environment is the most critical issue facing the country, with 61% rating toxic chemicals and human health as the most threatening issue.

These concerns are valid. Every year, approximately 1,700 Toronto residents die from health complications related to poor air quality. Recent data from the Ontario Medical Association estimate that between 2000 and 2026 annual smog-related premature mortality in those over the age of 65 is expected to increase by almost 4,000. Clearly, we need better protection from these toxic chemicals to protect our health and the health care costs associated with pollution.

Current regulations do not provide the protection needed. At least nine of 10 known human carcinogens are found regularly in Toronto's air. In 2003, Ontario regulations allowed over 7,000 tonnes of hazardous chemicals to be released into Toronto's air, land and water. Many of these chemicals are toxic to humans, with

many known or suspected to cause cancer, damage mammalian/human reproductive, respiratory and neurological systems, and disrupt hormone balance and normal growth and development in children.

In Toronto, there are over 40,000 facilities using and releasing toxic substances. A recent case study conducted by our working group revealed that in the south Riverdale-Beaches neighbourhood of Toronto, only 11 of 115 companies suspected of releasing chemicals carcinogenic to humans reported their releases. Ontario residents need more information about the sources of these toxic exposures to enable them to take action to protect themselves and their families. Bill 164 will help provide this critical information.

A Community Right to Know Act in Ontario would benefit Ontario residents by: strengthening environmental protection; stimulating pollution prevention activities by industries and governments; supporting emergency planning and preparedness; and improving our understanding of health and environmental risks.

All of these activities will contribute to healthier and safer communities throughout Ontario.

Community right to know laws and programs have been identified as best practice in cancer prevention and environmental protection by the National Committee on Occupational and Environmental Exposures, among others. Community right to know bylaws have helped citizens and workers worldwide reduce the level of toxic pollutants in their communities and workplaces. For example, in Massachusetts, where community right to know legislation has been a fixture for 17 years, there has been a 41% reduction in the use of toxic chemicals, a 65% reduction in toxic chemical waste and a 91% drop in emissions from toxic chemicals. The economic benefits of the program outweigh the costs by 18%.

We know that adopting a legislative strategy to introduce community right to know legislation and to promote safer alternatives to toxic chemicals will require vision and leadership. It is a strategy that will impact many different ministries—health, labour, environment, agriculture and transportation, among others—and so requires the attention of the leaders of our political process. We believe it is a strategy which will be well received by Ontarians and provide lasting and concrete benefits to our health, our environment and our economy.

For these reasons, we recommend that Bill 164 be part of this session's legislative agenda, so Ontario can become a leader in pollution and cancer prevention. Thank you.

The Chair: Thank you. We have about two, two and half minutes. We'll go to the government side.

Mr. Vic Dhillon (Brampton West—Mississauga): Thank you, Ms. Bradshaw, for your presentation this morning. I think we all agree with the intent of this bill. One of the concerns that we have is about whether this is doable. Part of that stems from the fact that the federal government, which is in charge of labelling and health hazard concerns, has already begun work on this, and duplication is a big concern. Don't you think we should

continue along those lines and let the federal government do its work so that it can benefit the entire country as opposed to just Ontario?

The Chair: You have about a minute.

Ms. Bradshaw: Okay. I think what Ontario could do would be to augment what is happening at the federal government. I see an opportunity for Ontario to provide—I don't know if it will be additional legislation, but other legislation that would augment what's happening at the federal level. Certainly from looking at our neighbourhoods and the point sources of pollution in Ontario, again, through the Ontario government, we could be looking at taking specific actions that aren't happening federally.

The Chair: Thank you very much.

0950

TORONTO WORKERS' HEALTH AND SAFETY LEGAL CLINIC

The Chair: From the Toronto Workers' Health and Safety Legal Clinic. If I can ask you, sir, to introduce yourself for the record, and I think you know how the process works. Good morning.

Mr. Daniel Ublansky: Good morning. My name is Dan Ublansky. I am the lawyer-director of the Toronto Workers' Health and Safety Legal Clinic. Our clinic is also a member of the coalition that Nancy referred to, the Toronto Cancer Prevention Coalition. We are a community legal aid clinic funded by Legal Aid Ontario. We provide legal advice and legal representation to unorganized workers in Ontario on health- and safety-related matters. We are also involved in law reform activities and community outreach activities. That's what brings me here this morning rather hurriedly. I had a call last night that this spot had opened up. I didn't make the A list, so I didn't have a chance to prepare as thoughtful a document as my two colleagues have, but certainly I support the positions they've taken and we, as a clinic, support community right to know.

It just happened that I was reading an article in the New York Times yesterday morning, and it struck me, although it doesn't quite fit the parameters of this bill because the chemical involved wasn't a carcinogen, that it illustrates the importance of community right to know from the worker's point of view. My colleagues have already indicated that one of the principal spinoff benefits from community right to know legislation has been substitution, and that brings to focus the point that the pollutants that affect the community originate in the workplace. The exposures that people in the community get are a small fraction of exposures that people in the workplace get. So with benefits of substitution for the public, the multiplier effect is considerable for the workers who are involved in producing these products.

What the story in the New York Times is talking about is a chemical that was an additive in food products that led to respiratory disease among the workers who were producing it. This is something that was discovered seven

years ago, and the story is that in the seven years since, unfortunately in the US—and there are lessons to be learned here as well; I'm not so sure that things would have been that much different here—on the occupational health and safety front, virtually nothing has been done either to protect the workers who are producing this product or the community at large who are consuming the products that contain the additive.

To me, this is a perfect illustration of what good can come from information. People need to know what they're eating, what they're using to clean with, all of the various products that are out there for consumers to use that contain chemicals that are dangerous. People need to know that. People need to make informed choices. That's really what community right to know is about and, as I said, through those choices, everyone benefits, both the people who produce the products and the people who use them. That's really all I have to say.

The Chair: Thank you. We have four minutes. I'm going to suggest that we split two and two here. Opposition, please.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for appearing here on short notice. I appreciate that you prioritized us to come in on short notice. And I thank Mr. Tabuns for his bill about the community right to know, because we all need to know more about what carcinogens we could be exposed to.

You mentioned a couple of things. Basically, the benefits are substitution so industries, etc., are made more aware and substitution comes, and we're all healthier for that. It was mentioned earlier—and I'm sure you're aware—that the federal government, Health Canada and Environment Canada, is amassing information. I think it's a fast track of 500, and as they are approved, they are checked off.

Mr. Tabuns's bill today says Ontario should take the lead. Do you feel that Ontario should have its own list of known carcinogens as explained in the bill or do you feel that it should be more of a consultative nature with the federalists? I guess what I'm asking is, is it better to have us all on the same national page? I know we're living in a global world. California has been mentioned as doing—I forget the bill there, but the California bill. Just to comment on that, I'll only ask one question and let Peter ask the rest.

Mr. Ublansky: I've been around for a long time, and I've been doing this for a long time. My answer to those kinds of questions tends to be, I always like to try to have the best of both worlds. In previous similar-type situations what I've always advocated is: Yes, I understand the benefits of avoiding duplication, so yes, there is much that we can gain from other jurisdictions. But I would never preclude the opportunity for Ontario to do better. If information comes to light that isn't being acted on in other jurisdictions, I think Ontarians should have the opportunity to say to their government, "We want you to do better." So I think that there should be room for both.

The Chair: Mr. Tabuns?

Mr. Tabuns: It's interesting to hear the statements from the government side on this, because these are essentially the arguments I heard when we were fighting against second-hand smoke in the 1990s. We in city governments were told, "Wait for the province to deal with it." In the end, it was the cities that took the lead and the province that followed. Here we have an opportunity for the province to lead and have the federal government follow. Do you think Ontario should be a leader?

Mr. Ublansky: Again, unfortunately, I've been around for 30 years and I remember when Ontario was a leader. I remember when we used to pride ourselves on the fact that we were leaders: 20 years ago, we would never look at Alberta and say, "Wow, we've got to catch up with Alberta. They're doing a great job out there." This is something that was unheard of 20 years ago. I don't know how things changed, I don't know why things changed, but in answer to your question: Absolutely, we should be the leaders.

The Chair: Thank you very much.

1000

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair: We'll call on the Registered Nurses' Association of Ontario. Welcome. It's good to see you again. For the record, introduce yourselves, and I think you know how it works.

Ms. Doris Grinspun: Good morning. Thank you so much for having us address the committee on this very important piece of legislation. My name is Doris Grinspun, and I am the executive director of RNAO, the Registered Nurses' Association of Ontario.

As nurses, we are engaged in health promotion, disease prevention and illness care. Our goal is both to keep Ontarians healthy and care for them when they are sick. Nurses are deeply concerned about the impact of the environment on human health. We know that to keep our population healthy, we must reduce our exposure to toxins. We support Bill 164 because this bill would consolidate and enhance existing rights to know about hazards in both consumer products and in pollutant releases under current legislation.

Through changes to the Consumer Protection Act, Bill 164 would allow consumers to make informed choices and would act as an incentive to manufacturers to remove toxins from their products. Is it enough? No, we don't think so—and we will speak about that—but it's a step in the right direction. Bill 164 would also require the Minister of the Environment to maintain an up-to-date and publicly available inventory of pollutants. The legislation would ensure that Ontarians are able to access information about their exposures to pollutants and about the associated health and environmental risks. Finally, Bill 164 would amend the Occupational Health and Safety Act to strengthen the requirements to provide information to the local fire department on hazardous materials in the workplace.

The community right to know is an essential component of a program to protect human health and the environment from toxic substances. Indeed, it is the first step in the right direction. Nurses urge the Ontario government to develop a plan to get toxins out of the environment to help our citizens avoid environmental diseases. Such a plan should include regulation, technical assistance and incentives via subsidies and taxes. An essential first step, as we said, for our government to take is better access to information about toxins and pollutants. Bill 164 would take that important first step for Ontarians.

The environment, as we know—and it has become a trend, so we know it more and more—is a major determinant of health. Nurses have known it very long. People flourish best when they live in clean, green environments. Evidence linking the environment to health outcomes is well known, and it has been well known for many years. In developed regions, environmental factors accounted for 17% of deaths. Research suggests that occupational exposures alone account for 10% to 20% of cancer deaths. Even more disturbing, international and Canadian evidence shows that these negative impacts are experienced more frequently by lower-income people. Again, they are receiving double, triple and more whammies. Thus environmental protection is not only a matter of health but also a matter of social justice. Protecting Ontarians from toxins and pollution will decrease suffering and spending for illness care, so it is also a good economic measure.

We know that conditions such as asthma, cancer, developmental disabilities and birth defects have become the primary causes of illness and death in children in industrialized countries, and we know that chemicals in the environment are partially responsible for these trends. Recently, tests have shown that Canadians have many hazardous chemicals in our bodies—in fact, all of us around this table do—including known or suspected carcinogens, hormone disruptors and neurotoxins. How can we be sitting here, knowing that—actually, some of those are well known—yet allow them in our environment?

There is a great urgency to act to protect the health of Ontarians and of our children. RNs want to see large margins of safety built in to accommodate the much greater vulnerability of children to toxins. RNs also want to see the province use the precautionary principle in relation to potential hazardous materials and shift the burden of proof regarding chemical safety from regulators to the industry.

The first step to protect health is to have the information we need on hazardous materials publicly available. Many jurisdictions recognize the community right to know, including, in the US, California, New Jersey, Massachusetts. And of course we know of the advanced progress in the European Union.

Codifying this right in Ontario legislation will enhance transparency and accountability—we do speak about accountability, so let's move on this—and bring a number of benefits, including:

- facilitating policies to control exposure and risk;
- empowering communities to take steps to protect themselves from local environmental risks;
- allowing individuals to make informed choices about the products that they consume;
- facilitating assessment of risk to health and the environment due to exposure to multiple substances;
- facilitating diagnosis of environmentally related diseases and research into environmental origins of disease by comparing geographical patterns of disease, patterns of exposure and socio-economics;
- strengthening emergency preparedness;
- and, may I say, empowering the public to actually know what legislation, what policies and what platforms they're voting on in the future, both provincially and nationally.

As with any change, there will be costs associated with this bill. However, as nurses always say, we either pay upstream, in prevention, or we pay downstream, in illness care.

The Chair: So you were the ones who said that. I always wondered where that came from.

Ms. Grinspun: Absolutely, we did.

Two examples from the United States will be helpful to us. The two jurisdictions implemented right-to-know legislation with positive outcomes. One is, of course, California, where right now legislation has resulted in removal of hazardous materials from consumer goods. The other is Massachusetts, where legislation incorporating community right to know has been very successful in reducing toxic emissions.

Community right to know must be a non-partisan issue, and we urge all parties to support Bill 164. It is a right that has been recognized in many jurisdictions and forms an essential part of effective programs to reduce exposure to toxic materials.

We would suggest two amendments which we believe will strengthen Bill 164. The first is to add to the pollutant inventory any other data and reports that the Environmental Commissioner of Ontario decides are appropriate. This will ensure that the inventory can continue to evolve with our understanding of the interaction between the environment and toxins. The second is to clarify section 4.1(3) to ensure that the pollutant inventory is searchable by facility. This will ensure that we have ready access to important information about multiple risk factors in our communities.

Thank you again on behalf of the nurses of Ontario for this opportunity to speak to you about this very important bill. We ask the members of the committee to support it through third reading.

The Chair: Thank you, Ms. Grinspun. You're about 30 seconds over, so there's no time for questions.

Ms. Grinspun: But that's because of your comment, sir. Be it noted.

The Chair: Very good. Bless your heart. Was I 30 seconds?

Mr. Tabuns: Absolutely.

1010

CANADIAN COUNCIL
OF GROCERY DISTRIBUTORS

FOOD AND CONSUMER
PRODUCTS OF CANADA

The Chair: We'll move to the Canadian Council of Grocery Distributors, please.

Ms. Kim McKinnon: Good morning. I'm Kim McKinnon from the Canadian Council of Grocery Distributors. Thank you for having us here. I'm here with my colleague Gemma Zecchini, who will introduce herself in a moment. Just so you know who we represent, we are the grocery retailers and grocery and food service distributors in the province and in the country, so we represent about a \$70-billion business Canada-wide and about \$30 billion in the province of Ontario.

Ms. Gemma Zecchini: Good morning, ladies and gentlemen. I appreciate the opportunity to come here today to talk about issues of importance to Canadians' environmental and health policy.

Today you're hearing a number of presentations that are providing you with various options on how to best safeguard the health of Canadians, and what I want to do in the five minutes that I have available to me today is to give you some appreciation of the current health and safety framework for food and consumer products in Canada, but also to talk about what is happening at the federal level, which I think is quite groundbreaking and has some implications for the work of this committee.

What I will ask you at the conclusion of this presentation, and I'll ask you now—and just so that everybody knows, I'm actually going to restrict my comments to the labelling provision of this bill; I'm not going to purport to speak to the other measures. But before going forward with the labelling measures in this bill, I would encourage this committee to do some further study on what's happening at the federal level and in particular to look more closely at the chemical management plan at the federal level and look at where there might be some gaps or opportunities for this body to provide some input at the federal level, if there are gaps and concerns, so that we can close those for all Canadians and we don't end up with a patchwork of regulations throughout Canada.

A couple of things: My package tells you who I am and whom I represent. We put about 75% of what's on grocery shelves into the marketplace and we're governed by about 442 pieces of legislation, at last count, and about 4,000 regulations. So we're no stranger to regulation. I'm not going to spend any time on that and I'm not going to spend any time on the past, but I really would like to talk a little bit about what's happening in Ottawa today.

There's a lot of groundbreaking work going on there in terms of assessing safety benchmarks. Just this past September, Environment Canada and Health Canada finished an analysis of over 23,000 substances to

determine which ones present a hazard to human health. Out of those 23,000, they found that there are about 4,300 that needed further in-depth evaluation. And out of those 4,300, there were about 500 that needed to be fast-tracked for priority evaluation over the next 36 months because there are significant concerns about their hazard, either to health or the environment. Many of those 500 fast-tracked substances are the ones that you will find on the IARC monographs which form sort of a reference point for this bill.

The system is already starting to work. Let me give you one example. I think my colleague from Environmental Defence mentioned stain repellents and flame retardants. As a result of the chemical management plan and the CEPA process in Ottawa, those two substances are already subject to regulation. There is a bill before the House called Bill C-298, and it's going to place certain substances on what's called the "virtual elimination" list, essentially prohibiting their use in Canada. There is a wide variety of other substances currently undergoing rigorous evaluation under this chemical management plan to determine what hazards are being posed to human health. Let me just tell you what that process is about.

When all of that work is done, one of three things is going to happen. Either the chemical or substance is going to be determined to be safe for use, or it's going to be determined to be unsafe and needs to be eliminated from the marketplace. In both of these cases, if you think about the labelling provision, there is no need for cautionary labelling; it's either safe or not safe. In other cases, substances are going to be limited to specific doses, quantities or applications, and the federal government has a wide array of tools to make sure that this happens. Those include legislation and regulations. There are other enforcement measures. They can require manufacturers to communicate with consumers via labelling or other means. This process will also drive substitution, because I've heard a lot about substitution today. So if you're in that grey zone where you need to be circumscribed with respect to dose or application, you're going to try your hardest to substitute, if substitutes are in fact available.

A key part of this process is transparency. Every Canadian will have a right to know what the safety profile of an ingredient is as this process goes on. This chemical management plan I think is much more protective of human health than any system that could be built on the IARC monographs. That's not to say that the IARC monographs aren't important, but they weren't meant to address safety thresholds for the use of substances. So while the federal government is using the IARC monographs as an important source of information, they are also looking at potentially hazardous substances from a wider perspective—not just whether or not they are carcinogens, but also whether they are mutagens or whether they pose a risk to reproductive and developmental toxicity.

So where do we, as industry, come in in this whole process from Ottawa? Ottawa has powers to compel in-

formation. At the moment, Ottawa, under this chemical management plan, is using powers under section 71 of the Canadian Environmental Protection Act, going out and asking industry—there are mandatory disclosure requirements for those substances that are on this hot list of priority substances. What we, as industry, need to do to comply with section 71 is set out what substances we're using, how much we're using, how they are used, in what products and how they're distributed throughout the supply chain. This process is designed to ensure that the priority evaluations are completed quickly, with the utmost scientific rigour and comprehensiveness.

We suggest that one of the primary objectives, particularly of the labelling provisions of Bill 164, which is the protection of consumers from cancer-causing agents, is better achieved on a national scale by Environment Canada and Health Canada rather than through a patchwork of provincial regulations. We're concerned that Bill 164 is limited to warning consumers about carcinogens without providing them with information about the conditions of use or dosages that lead to harmful effects. There is a well-known axiom that says it's the dose that makes the poison. Transferring the risk entirely to consumers under a right to know without providing context and information, I would say, is not what Canadians are expecting from their legislators.

As somebody around this table has already mentioned, having the provincial government make these complex determinations requires significant investment to develop the needed scientific expertise, and this expertise and these resources are currently invested in Health Canada.

To summarize, there is a national process under way. It will meet some, if not all, of your objectives. I would encourage you to look into that and identify where you think that process could be strengthened so we can make a difference and so you can make a difference for all Canadians, not just the ones who live in Ontario.

Thanks for your attention.

Ms. McKinnon: Thanks, Gemma.

My comments were just going to be summary in nature; that is, that the retailers in Ontario strongly support the CEPA process and the work currently being done with Health Canada and Environment Canada, as explained by Gemma. We strongly support the protection of the consumer and our employees, and food safety is the number one priority for our business. We are highly engaged in the national process at the moment. Resources have been put toward analyzing the products and the environmental concerns that have been outlined in the CEPA process. We are dedicating our resources to make this happen, and we believe that if we allow it to unfold, the objectives of Bill 164 will not only be achieved but be strengthened by this detailed scientific approach that is under way federally.

We would like to say to you—we are already engaged in the process—that if there's anything we can do to bring the province and the federal government together to initiate a group that can work toward achieving Ontario's objectives in harmony with what the feds are trying to achieve, we would be very happy to do that.

The Chair: Thank you very much. That consumes your time.

RETAIL COUNCIL OF CANADA

The Chair: We will move on to the Retail Council of Canada. Welcome. It's good to see you again. I suspect that not everybody knows you, so could you identify yourselves for the record, and then I think you know how the process works.

Ms. Ashley McClinton: Yes. Thanks, Ted. Good afternoon. No, good morning—I guess it's a long day already. My name is Ashley McClinton. I'm the director of government relations in Ontario for the Retail Council of Canada. I'm accompanied by a colleague, Rachel Kagan, our national manager of government relations on issues with respect to the environment.

On behalf of Rachel and our members operating in the province, thanks for the opportunity to appear before you today. We will try to move through our remarks quickly so we have some opportunity for questions at the end.

1020

RCC has been the voice of retail in Canada since 1963. Our members represent all retail formats: department, specialty, discount and independent stores, and online merchants. While we do represent large mass-merchandise retailers, the majority of our members are in fact small independent merchants. Over 40% of our membership is based right here in Ontario.

Speaking briefly about the contribution of the retail industry, I would note that it's the province's second-largest employer, with more than three quarters of a million employees in the province. It's actually a little-known fact, but we rank right behind manufacturing. In terms of scale, we're well ahead of the health care sector, the tourism industry and others—so just a huge industry in terms of employment. In addition, the retail industry had more than \$140 billion in sales in Ontario last year and has over 85,000 storefronts in the province. It's truly an industry that touches the daily lives of most Ontarians.

With respect to the business before the committee today, we're going to restrict our comments to the proposed amendments to the Consumer Protection Act. That's the provision that proposes to require suppliers to warn consumers about possible exposure to certain toxic substances through labelling or other means.

Retailers, as sellers, importers and brand owners of products, and as the touch point for both consumers and manufacturers, have a significant stake in this proposal. Indeed, our members are strongly committed to product safety and strict measures to protect human health. However, we are concerned that the act pre-empts national safety standards and, if passed, would place our members in an untenable situation.

I'm going to turn it over to my colleague to speak to the first point.

Ms. Rachel Kagan: As Ashley mentioned, the health and safety of consumers is of the utmost concern for retailers. From our members' perspective, the top priority

is to be assured that the products they sell are safe. That is why RCC and our members support the comprehensive and systematic review of chemical substances currently being undertaken by the federal government. In our view, this is the first and essential step.

As part of the Canadian Environmental Protection Act review, Health Canada and Environment Canada are drawing on unprecedented resources and scientific expertise to determine the safety threshold for over 23,000 substances currently in commercial use in Canada. In fact, under this review process, substance assessments are not limited to determining potential harm to human health. Substances are also being investigated for potential harm to the environment.

The prospect of setting a parallel and redundant system in place in Ontario, as is proposed by Bill 164, is of deep concern to us. Amending the Consumer Protection Act as Bill 164 proposes would set a precedent that other provinces would be likely to follow. This would result in a patchwork of provincial precautionary labelling regulations which would potentially conflict with each other and the federal program. Retailers run businesses that cross provincial boundaries. It is administratively costly and in some cases operationally unfeasible to implement different types of programs. Further, potential conflicts between Ontario labelling requirements and federal findings of safe substance levels in products would be very confusing for consumers.

For these reasons, we urge you to support the creation of a national set of standards designed to protect both human health and our environment from harm.

Ms. McClinton: Thank you, Rachel.

Before we take your questions, I want to address why the passage of Bill 164 would be additionally problematic for the retail industry. As Rachel mentioned, our members' number one priority is to be assured that the products they sell are safe, and we want to mitigate any risk associated with consumer products. However, Bill 164 does not propose to reduce risk, but rather to warn against it. We have grave concerns about the implications that such an approach would have if implemented at the provincial level.

Currently, there is no legal mechanism in place requiring vendors to supply retailers with the contents and concentration of toxic substances that may or may not be contained in products. This issue can be even more problematic when retailers are dealing with international suppliers. While this is of particular concern to small independent merchants who are selling and importing products, it's also of concern to mid-size and large retailers who are brand owners themselves. Retailers with private-label brands do not necessarily produce this merchandise themselves, but may simply market and sell it to consumers. So retail brand owners who do not produce their private-label products may not always be aware of the chemical formulas and ingredients that comprise them. For example, the information may not be shared owing to proprietary patents, and retailers have no means of forcing the producer to reveal that information

to them. So this proposed act would place retailers in a situation where they're doomed to fail and thereby incur the legal and administrative costs associated with failure through no wrongdoing on their part. As a result of these issues, we respectfully request that the committee not permit the act to proceed.

Thank you again for your time today, Mr. Chair, and we would be happy to take any questions that committee members may have.

The Chair: Thank you very much. We have about three minutes, four if I stretch it, working on the two-two principle. We'll start with the government and then go to the opposition.

Mr. Jeff Leal (Peterborough): Thanks very much, Ashley and Rachel, for your presentation today. My question is, has the Retail Council of Canada commissioned a study to look at the economic and practical aspects of Bill 164?

Ms. McClinton: No, we have not. But certainly we know it would be devastating to do labelling such as this at the provincial level. First of all, as we mentioned in our presentation, our number one concern and priority is to ensure that products are safe. We feel that the CEPA review being undertaken at the federal level is doing exactly that. If labelling were to be one of the recommendations or outcomes of the CEPA review, that's something we could look at. But we certainly still feel that that should be undertaken at the federal level, because having different labelling requirements for different provincial jurisdictions would not only be unfeasible, it would also be extremely confusing for consumers to have a warning in one province and not in another.

Mr. Leal: Just a quick follow-up question to Ashley: Would you see it perhaps beneficial if the Ministry of the Environment in Ontario initiated one of these studies to look at the practical and economic aspects and to review the federal position to date on this particular issue?

Ms. McClinton: Offhand, I would say that those resources may be redundant, because the resources exist at the federal level right now through Health Canada and Environment Canada, not only infrastructure-wise but also information-wise. We think they're in the best position to undertake this kind of study.

Mr. Leal: The reason I ask the question is that there are 103 members in the Legislature. Members of this committee are obviously getting full details on this issue, but our colleagues might perhaps benefit by having the broadest and most detailed information possible on this particular topic, because we're all concerned about the environment.

Ms. McClinton: Our only concern is what it would mean for both consumers and the industry that needs to implement the outcome of that if the conclusions differed or conflicted at all.

The Chair: Ms. Scott?

Ms. Scott: I'll try to be quick and ask about labelling, because products now come here from all over the world, right?

Ms. McClinton: Yes.

Ms. Scott: How does it work now, and how would it work if Ontario had a separate law? Are there stickers? Can you answer that?

Ms. McClinton: Right now, in terms of labelling, that onus does not typically fall on our membership. For this issue in particular, when it comes to product ingredients or concentrations of levels in products, our members are not in a position to label because they have no means of actually knowing what's in the products. So that question may be more appropriately dealt with by the manufacturing sector.

The Chair: Thank you very much.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair: We will move to the Canadian Environmental Law Association, please.

Mr. Richard Lindgren: Good morning, everybody. I would like to start by thanking the committee for this important opportunity to speak to Bill 164. My name is Richard Lindgren. I'm a staff lawyer at the Canadian Environmental Law Association. We were founded in 1970, and our mandate is to use and improve laws to protect the environment and protect public health. So we basically represent individuals and citizens' groups in the courts and before tribunals on a wide variety of environmental matters.

I would say that we've been very active over the years in pressing for the adoption of right-to-know principles at every level of government: municipal, federal and provincial. We've been an active member of many of the coalitions you've heard from already, and that's why I'm here today to express our support for Bill 164. It's our view that if this bill is passed, it would give us new tools and new information that we can use to protect our clients in the communities we represent. Therefore we're recommending speedy passage of this bill.

1030

I've prepared a short brief that I have distributed to the clerk. You'll be relieved to know that I don't intend to read it—I don't even intend to refer to it—but it's there for your leisure reading, perhaps. I can tell you that it's quite a scintillating read.

I did some reading on my own in preparation for this testimony today. I had an opportunity to look at the second reading debate on this bill. It was quite interesting. I noticed that some members raised certain legal or constitutional concerns about the ability of this province to pass Bill 164. I would have to say, as a lawyer and with all due respect, that there is no legal or constitutional constraint on the ability of the province to pass Bill 164. Right to know, environmental protection, public health protection are not exclusively the jurisdiction of the federal government. Those matters are subject to shared or concurrent jurisdiction. It's certainly clear and open to the province of Ontario to do what it has to do, or what it wants to do, to protect public health

or the environment. The real question, in my view, is not whether or not the province can pass the bill. It's essentially a political question—a matter of policy, a matter of political will: Should the bill be passed? We say the answer to that question is yes.

I've heard some discussion this morning about the possibility of perhaps deferring to the federal government and letting these things get sorted out during the current CEPA review process. I'm not prepared to make that recommendation. We've been involved in the CEPA process since CEPA was first enacted over 20 years ago. We've heard people saying, "There are 23,000 chemicals on the domestic substances list, and we're going to systematically go through them," and all the rest of it. Do you know what? That list has been around for over 20 years. At this point in time, a mere handful of substances have actually been assessed and regulated. It appears to me that the federal government is moving at glacial speed, and the track record inspires no confidence whatsoever that we're going to see any timely or effective action at the federal level to deal with the issues that are addressed in Bill 164. So I say it's open to the province to be a leader, and it should be a leader. Let's not defer to the feds at all.

I'm also mindful of the fact that we want to coordinate with the federal initiative. We want to avoid overlap, but let's get our own house in order. Let's lead the parade and not just tail at the very end.

In my remaining time, I'd like to focus on the environmental component of Bill 164. We haven't heard a lot about that yet. I want to speak in favour of the amendment to the Environmental Protection Act. Basically, as you know, that amendment requires the Ministry of the Environment to collect and consolidate a number of existing records and pieces of information and put that forward in a centralized, user-friendly, Internet-based registry. The ministry is also compelled by Bill 164, if passed, to provide public health and environmental information on certain pollutants as may be prescribed by regulation.

In my respectful opinion, that's not a radical reform. That's a modest incremental amendment to an existing law. It simply requires the ministry to take information it already has in different little pigeonholes and mailboxes and make it centrally available to people so they can make informed choices about what they can do to protect themselves, their community and their families. That's not radical, and that's not much different from what other jurisdictions have been doing for years and years across North America. So it's not rocket science. It's doable and it needs to be done.

I'd be remiss if I didn't make mention of the special report filed this week by the Environmental Commissioner of Ontario. You'll recall that Mr. Miller filed a report with the Legislature indicating that the Ministry of the Environment no longer has sufficient capacity to do what it takes to protect the environment and protect public health. In particular, Mr. Miller was critical of the ministry's current capacity to review and update environmental approvals or to conduct environmental inspec-

tions or take appropriate and timely enforcement action. We at the Canadian Environmental Law Association share those views. We think Mr. Miller is right, and to my mind, that makes it even more important to pass Bill 164, so people have access to the information they need to take steps to move proactively to reduce their risks of exposure to potentially hazardous substances.

In closing, I would simply say that in our view Bill 164 is good public policy. It's good common sense and it's just a good law, and it's time to get it passed.

Let me thank the committee for your attention. If I have a minute or two, I suppose I could take some questions.

The Chair: You've got about two and half minutes, and I'm going to give that to Mr. Tabuns.

Mr. Tabuns: Rick, thank you for that presentation. The two previous presenters have said their number one concern is the health of their customers. If their number one concern is the health of their customers, should they not be supporting this bill?

Mr. Lindgren: I have to confess that's exactly what crossed my mind. They were indicating that they were at a loss to explain what may or may not be in their products. Carrying that one step forward, that means their consumers, the people who ultimately purchase the goods and services, may have no idea. Isn't that the point to be addressed by this bill? Isn't that the issue that we're here to address, which is to make sure that consumers have access to information about potentially hazardous substances in the products they are buying or consuming? To me, it's a no-brainer: I think people need that information.

Mr. Tabuns: Thank you.

The Chair: Do you need any more time? I'll give you another minute.

Mr. Tabuns: If I may, then. I know that in the United States environmentalists and environmental lawyers have said that proposition 65 has had far more effect than any federal legislation in terms of moving suppliers, retailers and manufacturers to cleaning up their products. Do you think that this will have more effect than the initiatives that are being taken at the federal level to deal with toxic chemicals?

Mr. Lindgren: It certainly has that potential, and I'm certainly aware that that's been the analysis of the proposition 65 experience in California. It's gone a long way in motivating industry to change feedstock, to reformulate their products and to otherwise improve their environmental performance. If we get that kind of consequence as a result of passing Bill 164, I say bring it on.

The Chair: Very good. Thank you very much.

CANADIAN COSMETIC, TOILETRY AND FRAGRANCE ASSOCIATION

The Chair: The Canadian Cosmetic, Toiletry and Fragrance Association, please. Gentlemen, if you could introduce yourselves?

Mr. Darren Praznik: Yes, thank you, Mr. Chair. My name is Darren Praznik. I'm the president of the Canadian Cosmetic, Toiletry and Fragrance Association, and my colleague who joins me today is senior vice-president Mr. Carl Carter, who's also a chemist by profession and probably one of the leading experts in personal care product regulation in Canada.

First of all, I believe a copy of our written submission is being distributed, and we've also included a copy of the particular list of substances that are referenced in the bill for your perusal. I think it's an interesting read in putting things into some perspective.

First of all, let me say that, on behalf of the CCTFA and our member companies, we are always very supportive of product safety, health protection and the public's access to solid and sound information about the products they use.

The last time I happened to be before this committee was some years ago in another role, with Canadian Blood Services. At that particular time, the legislature was considering health privacy protection legislation, spent a huge amount of effort in developing the bill and trying to understand the complexities of health care and how a bill like that would affect it. Yet that piece of legislation at that time, if it had been passed as drafted, would've literally shut down the Canadian blood system because of very unintended consequences in the drafting. Fortunately, members of the committee and the Minister of Health, when they realized this, made the necessary amendments. It makes the point very clearly that in areas of complex regulation it is important that legislative committees, in considering bills, appreciate all of the complexities out there so there are not unintended consequences. I want to address those in a moment.

In the brief that we have provided, like many who have been before this committee this morning, our industry is very much regulated by Health Canada. I've tried to give you a sense of the regulatory regime in which cosmetics and personal care products are governed. In fact, our products fall under either cosmetic, natural health product or drug regulations in order to be able to be marketed in Canada. Specifically with respect to cosmetics, the regulatory requirements say very, very clearly that cosmetics cannot be sold if they contain any substance that may cause injury to the health of the user when used as directed or as customary. So we are not allowed, by law, to put products on the market that are harmful to the people who will be using them.

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Health Canada spends a great deal of effort gathering information. There is a list of some 500-plus ingredients that are prohibited or restricted in cosmetic products. In fact, that is the same list that is used by the European Community. There's a great deal of international co-operation on the assessment of this information. Consequently, processes are in place within that regulation to both collect data—our products have to file a list of their ingredients and quantities with Health Canada so that they can be checked against that list. As well, if new

information becomes available, they can be adjusted or taken off the market; so that list is available. As well, our industry worked very closely in lobbying Health Canada to introduce the requirements for mandatory labelling of products with ingredients and the introduction of international nomenclature so that no matter where a cosmetic or personal care product is manufactured in the world, we would have a common nomenclature with which to understand the ingredients that were in this product.

I raise that to say that there is already a very extensive regulatory process that uses a great array of information to determine risk and what products should be restricted or prohibited. What we see in Bill 164, although I think well-intended—I don't think anyone would argue that it's necessary people have a right to know—is this very quick bill, I think, trying to get into a complex area. The unintended consequence is the creation of a dual regulatory regime that is not aligned with the federal regulatory regime. In fact, the list on which the warning is based is not really intended entirely for this kind of purpose. If you look at the monographs in the preamble, it indicates that it forms—I've referenced it in the brief—a basis for further study and examination. When you look at that particular list, some of the items that appear on it are things like alcoholic beverages. I think that's on page 2. On the last page you see coffee, and you see things like pickled vegetables, I believe. That isn't to take away from the list. It was a very good list. It's used by Health Canada, it's part of what they base their decisions on, but it wasn't intended for this kind of purpose. So in essence, by creating two regulatory systems, we could see a situation where a particular product is on the market, allowed by Health Canada—that the levels of a particular product are not determined to cause risk to health; otherwise, the product could not be sold—but yet, by using a list which was created for a somewhat different purpose, the government of Ontario could require a warning on the product that this may cause risk or a carcinogen or some warning.

What does that say to the consumer? We all want the consumer to have good information and have the right to know, but I think they also have a right to expect that two levels of government will not be in a position to provide potentially contradictory information because their regulatory regimes are not aligned.

So the point we make to you today very clearly—and we've tried to summarize these arguments in our brief—is that although this is well-intended legislation, I think it is getting into a realm of creating a dual regulatory regime. There are many unintended consequences, and certainly if we saw the level of labelling on a list that wasn't intended for that purpose, would it undermine the question of the value of that warning? That's another potential that needs to be explored.

Our proposal would be that this very valuable issue needs further discussion and contemplation as to how it fits into the overall extensive regulatory work now going on by the government of Canada. We would ask this committee and the Legislature to spend some more time

on appreciating and understanding that complexity and seeing how we can ensure that consumers in Canada really get value out of our regulatory processes that are aligned with each other.

We would also say it's very important, as well—and I speak as a former legislator who spent two years as a health minister in another jurisdiction and 14 years in a Legislative Assembly—that we not create a patchwork of regulation across this country in dual regulation. If we do, at the end of the day, another province may say, "Well, I like Ontario's proposal but I don't like their list." So now I'll have a list of warnings different from Ontario, and we've got Health Canada. What will that say to consumers at the end of the day, if they are getting conflicting information?

That would be the thrust of our presentation. We're certainly open to any questions.

The Chair: We have about two and a half to three minutes, so we'll go to the government side.

Mr. Leal: I'll pose to you the same question I posed to the Retail Council of Canada: Have you conducted any comprehensive studies in terms of the economic and practical aspects of Bill 164? That's my first question. My supplementary is, would you see the value in perhaps the Ministry of the Environment in Ontario looking at this to address some of the thoughts you've expressed to this committee this morning?

Mr. Praznik: Yes, first of all, with respect to the first part of that question, until one sees the regulations that the bill contemplates, which have not been provided in draft form, we would have no idea how to do that kind of assessment. It would be very speculative. But we would suggest that given the importance—I think the member who introduced the bill raises a very good issue that's part of the public debate—given the complexities, a thorough study by the government of Ontario and the appropriate ministries as to how this would fit in, what the need is and all the complexity of it would probably be a very, very good thing to do before this bill moves on to another stage of passage.

Mr. Leal: I just say that we on our side look at this bill, and there are some very important issues that have been raised through this bill. Thank you.

The Chair: Thanks very much.

Mr. Praznik: Thank you very much, Mr. Chair.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: The Canadian Federation of Independent Business. Welcome. I think you know how it works. For the record, I'll get you to introduce yourselves. Then you have 10 minutes here to make your presentation.

Ms. Judith Andrew: Good morning, everyone. I'm Judith Andrew, vice-president, Ontario, with the Canadian Federation of Independent Business. I'm here with my colleagues Plamen Petkov, who is policy analyst for Ontario, and Melanie Currie, also policy analyst for Ontario.

I'd like to start off by saying that Bill 164 is duplicative of work done at other levels of government and is guaranteed to be ineffective. The most recent report of the Environmental Commissioner of Ontario indicates that the Ministry of the Environment and the Ministry of Natural Resources are actually faltering in a number of core functions, such as inspection, compliance, enforcement and monitoring. If they do not have the resources to enforce existing regulations, there's absolutely nothing to be gained by creating additional regulations that they also cannot enforce.

Government regulation and paper burden remain a top priority for the majority of small and medium-sized businesses. Our own data shows that 69% say that's a key issue for them. In fact, here in Ontario, the cost of business is something in the order of \$8,200 per employee versus in the OECD, which is about \$6,800. We cost businesses more with regulation in this province.

Small firms are the group hit hardest by the existing regulatory framework. It is already impossible for small businesses to know about, understand and comply with the countless regulatory requirements from all levels of government. May I remind the committee that the business community in this province is overwhelmingly small: 60% of all the firms in the province don't have any employees and another 21% have fewer than five employees for a total of four in five businesses in the province having fewer than five employees.

Bill 164 will only increase the regulatory burden on these businesses, which will be detrimental to the competitiveness and the overall economic prosperity in the province. But the proposal is an example of bad policy. It runs contrary to the growing demand for less proscriptive and more results-oriented regulation. The fact this bill has made its way past second reading without consultation is more alarming. With one half day of committee hearings and with about the same amount of notice to deputants, we would say that's not enough time for meaningful and serious debate on the legislation.

In the right-hand side of your kit, you will find examples of studies that CFIB has conducted over the last 10 years. We've done extensive work on environmental issues, and we have a new study expected soon. Our environmental studies and surveys reveal that small and medium-sized business concerns about the environment are very similar to those of their fellow Ontarians. Small and medium-sized enterprises have repeatedly stated that environmental protection is a top priority for them, and a great majority of them have already made a great deal of progress on environmental issues.

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Small and medium-sized business owners report that they are motivated to protect the environment primarily by their own personal views and concerns—87% of them say that—but not by current regulations—only 12%. Moreover, the fear of future regulations appears to be the least influential motivator for environmental change. The genuine concern that small and medium-sized enterprises show for the environment and the strong impact their

own beliefs have should not be ignored or underestimated when planning the most appropriate action for environmental protection in the province. Please refrain from politically expedient but highly detrimental policies that will squander this goodwill, muddy the waters in terms of which level of government is responsible for what and make it more difficult for businesses to succeed in this province. A final word to committee members: Legislate in haste; repent at your leisure.

My colleagues may wish to add some extra examples. I would just like to bring one issue forward. CFIB participates in the Small Business Agency of Ontario. That agency has worked on a number of different projects to deal with the regulatory issues that small businesses face. This was a commitment that the Premier made, and in fact all the parties professed themselves to be concerned about the regulatory burden on small business before the last election.

One request that went forward was for the Ministry of the Environment to do a package, a kind of bundle of regulations that apply to business so that at least there would be better communication of the requirements to the small business sector, the majority sector in the province. Word came back that the ministry was too busy to do that. This is very distressing. We would like to see some practical initiatives to enforce, and help people comply with, existing regulations, rather than just piling on more things that also will not be dealt with.

Plamen or Melanie, did you want to add something?

Mr. Plamen Petkov: Basically, just to further emphasize this point, Judith: The message that we get from all members is very clear: Small businesses care about the environment, small businesses protect the environment and small businesses have already done quite a lot to ensure that their business activities do not leave their mark on the environment. But at the same time, we hear that small businesses are overregulated, and on the other hand, we also see that the government, especially the Ministry of the Environment in this case, is struggling to enforce regulations that are already existing. So is it really good sense to introduce additional regulations to this?

It was clearly stated in the Environmental Commissioner's report two days ago that the Ministry of the Environment is really struggling to enforce regulations. They don't have enough resources. I guess the real question here comes down to notification versus reduction and elimination. It's a good thing to make a label and to put it on a product to notify consumers what's in this product, but at the same time, this doesn't ensure that these toxins will get out of the environment.

The Chair: Okay, thank you very much.

Ms. Andrew: We'll take your questions, if there is time.

The Chair: We do, actually; thanks for leaving us some time for that. We have about three minutes and we'll go to the official opposition.

Mr. Norm Miller (Parry Sound—Muskoka): Thank you very much for your presentation today. Particularly

as the critic for the Ministry of Natural Resources, I appreciate your highlighting the Environmental Commissioner's report, how they aren't able to carry out their core functions right now. That was pointed out by the Environmental Commissioner's report.

My background before being a politician was 30 years in a medium- to small-sized business, so I completely agree with your message about business, especially small business, being burdened with red tape. But as it relates to this bill, if you agree that there's a community right to know about consumer products and carcinogens—and you've stated that regulations should be moving towards less prescriptive, more results-oriented—what would your recommendation be to government as to how this should be handled?

Ms. Andrew: I think these areas are reasonably well covered. There is a labelling requirement federally. I know Mr. Tabuns feels that the federal government isn't doing enough in that area, but frankly, it's not for Ontario to step in. When the levels of government muddy the waters in terms of who is responsible and no one can enforce any of it, it really does engender complete disregard for the rules. So, in our view, if there are deficiencies in the federal labelling requirements, it would be better to pursue changes at that level—the same as the certificates of approval; they're pretty comprehensive. They're also posted on the environmental registry as a consequence of the Environmental Bill of Rights that came through several years ago. So that information is available to the public.

We don't see that there's a whole lot of reason for asking people to do a considerable amount of reporting to the general public, who may or may not have the expertise to know whether to be terribly concerned about these things. This is a responsibility of government. They should be ensuring that what's in products is safe for the public. They shouldn't put it out to the public and get everyone riled.

Mr. Miller: So your first recommendation is to let the federal government continue with the process it's involved in and—

Ms. Andrew: And the same with the certificates of approval at the provincial level. Our members, like every citizen, I think, want a clear delineation of responsibilities at each level of government. In the last few years, we've seen governments trying to edge into each other's turf. That doesn't do a better job. Frankly, it does a worse job because there's just so much stuff there that most people don't know about. If you spent as much time, first of all, streamlining requirements and then communicating them well, people have goodwill, you know—

Mr. Miller: People in business.

Ms. Andrew:—our members are as much a part of the community as anyone. They don't want to put people at risk. If these rules made sense and they were communicated well and, in some cases, if there was compliance assistance, we'd be much further ahead as a jurisdiction than just writing another rule that will be on the books.

Ms. Melanie Currie: Just to add to what Judith has said, despite the federal labelling and efforts to do the same here in the province, the demand for these products is still in the marketplace. We've known for years that phosphates are dangerous for our water systems, and there are hundreds of products available on store shelves that have phosphates in them, chlorine in them, all kinds of nasty, toxic substances that consumers continue to buy. So, despite regulating the businesses into extinction, the products are still going to be available. It's placing the onus on the wrong area.

The Chair: Thanks very much for your presentation.

UNITED STEELWORKERS, CANADIAN NATIONAL OFFICE

The Chair: The United Steelworkers, Canadian national office, please. It's good to see you again.

Mr. Andrew King: I was told that I should bring 25 copies of everything, so I've—

The Chair: And it looks like you've done as you were told, so that's great. Thank you.

Mr. King: It's often the only example I can give, so it's a pleasure.

There are two documents that are being distributed. One is a summary of the presentation I will give today. The other is our union's report to the union membership on the issues related to the environment. I'm bringing that for the benefit of the members of the committee, one, because it will shorten my presentation in terms of talking about all the things we're involved in and why our union sees this as an important issue, and also, I think it will sort of fill out some of the arguments that I can only summarize in a relatively short period of time.

Our union represents 80,000 members in Ontario, more than 280,000 across Canada, and more than three quarters of a million in North America. Our members work predominantly in manufacturing as well as the service sector, mining, forestry, and transportation.

We have a long history of activism in both health and safety and the environment. There may be some here who know this, but it's such a young group you may not—back in the 1970s, our union was very active in the uranium mines in Elliot Lake, in sintering and smelting in Sudbury, and the coke ovens of Hamilton and Sault Ste. Marie. To this day, our local unions representing those workers have full-time activists representing the many compensation cases for the survivors of those workers who died because of occupational disease due to those exposures.

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The issue of toxic chemical use in manufacturing in particular is a source of great concern to us. This bill actually reminds us of the time when Ontario took the lead back in the 1980s in what we saw as the first stage of the process to replace toxics with safe chemicals in what became known as the workplace hazardous materials information system. Yes, it was a federal-provincial agreement, but picking up on the last conversation

I heard when I came in, the only reason it happened was because Ontario was prepared to take the next step to move forward on this issue.

I have four messages that I want to deliver in support of this bill.

The first is that over the next months and years, climate change will undoubtedly dominate the public discourse. No one can deny the importance of the issue and the need for us to take action at all levels of government. This importance, however, should not blind us to the opportunity to make major improvements to the overall sustainability of our economy by addressing pollution issues as well. We see Bill 164 starting the foundation so that that could be accomplished.

Second—my timing, I guess, was perfect because it seemed to be where the previous speaker ended up—we strongly advocate that you not get caught up in the federal versus provincial versus municipal debate as to who should go first. Our experience is that in order to achieve what is needed, each level of government has to do what it can, with programs shaped for their particular needs and, where possible, integrating common information. The province needs to take action on consumer products immediately and needs to build a coherent infrastructure for the environmental information that it collects.

Third, we see this as part of an issue of economic transition and jobs. I heard a variation of the last part of this from the previous speaker, but I'm sure someone else has made some suggestion that this will impede business or place another burden on industry. In case everybody hasn't noticed, we're in the midst of a manufacturing crisis, one which, in part, is due to the failure of the government to have a policy to help transition industry into more sustainable practices. Again, this bill poses no threat but in fact gives consumers the power to refuse to purchase products which contain carcinogens and makes information available in a coherent fashion that is needed to plan a sustainable transition. This information is needed for us to encourage, support and promote the transition of manufacturing.

Fourth, we wish to submit a need for an important amendment to the bill. As mentioned earlier, there is a chemical information system, WHMIS, currently in place. It is the foundation of an international classification system. However, WHMIS is not able to fulfill its potential, because in Ontario the requirement to inventory the chemicals or to plan to replace them with less toxic ones was removed by the previous government. I've outlined in the rest of my submission the specific sections that were removed and need to be returned so that the system can move forward in achieving its potential, which is removing toxic chemicals, finding alternatives and substitutes. Indeed, to do that, not only do you need to bring back those sections to the Occupational Health and Safety Act, you need to include a section that supports consideration of alternatives and substitution, a component well recognized as being critical to promoting sustainable transition.

There are two examples and I quote both of them: one from British Columbia, in the occupational health and safety regulations; and one in the Canada Labour Code—actually the regulations to the labour code, Canadian occupational health and safety regulations. Both provide the support that's needed in the workplace to transition from simply the recording of the chemicals to actually looking for substitutions and alternatives. We strongly urge you to consider an amendment to the bill that would address that.

There is clear and growing public support for policy to reduce exposure to toxic chemicals. Our concerns about our health, in both the workplace and the community, as well as the continuing degradation of our environment demand action. Our belief is that by implementing Bill 164 and the amendments that we have recommended, it will help support an economic transition that will both reduce the damage to health and the environment, as well as lead to more sustainable manufacturing in both an environmental and commercial sense.

On behalf of our membership, I urge the committee to support this bill and our amendments.

The Chair: Thank you very much. We have about four minutes, so we'll start with you, Mr. Tabuns.

Mr. Tabuns: Andy, thanks very much for the presentation. I'm going to assume that occupationally related cancer is a very significant issue for the trade union movement, which is why you're here.

Mr. King: That's an understatement, but that's one of the major reasons.

Mr. Tabuns: Can you tell us how the labour movement has seen community right to know as an ally in their campaign or their drive to reduce workplace-related cancers?

Mr. King: Certainly. We see WHMIS as a component of community right to know. It is part of an interlocking system. It works on a number of levels. One is that it helps us to lobby internally to get our employers to consider transitioning and using non-toxic chemicals. It also helps us, in the communities in which we live, to address things when the information is more readily available. I think that's historically where our support has been to. That is, we see the common cause at that level.

Coming into 2004, we actually see it as being even more important than that. There's a management phrase that what you don't measure, you don't manage. We see the community right to know as a component in encouraging all parties, including management, including government, to actually look at what they're doing to consciously reduce what they're exposed to. Community right to know becomes evidence of the fact that we're using less toxic chemicals and fewer are getting out into the environment.

Mr. Tabuns: There has been a lot of concern raised today about so-called duplication with the federal government. Do you have a lot of confidence that the current federal government is going to act quickly to reduce cancer-causing exposures, and do you think Ontario

should actually take the lead, given the direction of the federal government?

Mr. King: I have absolutely no doubt that Ontario should take the lead. This is an important step in the direction that needs to be taken. I don't think I need to give people here advice as to the challenges at the federal government level on environmental issues. It's in the paper every day, without exception. I think there is some positive movement in the area in which they have some jurisdiction, in the review of toxic chemicals. But it's a mistake to step back and say, "We don't need to do it because someone else might do it," and I think going forward—I was involved in the pollution prevention planning process that involved the smelters across Canada, which was a combined federal-provincial activity. At the same time that the federal government was doing this, the provincial governments, particularly Ontario, were also doing it. It was the fact that these things were happening, dealing with somewhat different issues but nonetheless coming together, that made it possible for us to achieve success in the long run. I actually think there's a real possibility for being complementary if—touch wood—some further progress is seen.

Mr. Tabuns: Okay. Thank you.

The Chair: Thank you very much.

INDOOR AIR QUALITY WORK GROUP,
SOUTH RIVERDALE
COMMUNITY HEALTH CENTRE

The Chair: We'll move to the Indoor Air Quality Work Group, South Riverdale Community Health Centre.

Ms. Maria Miller: Good morning.

The Chair: Good morning. If you could introduce yourself for us and then proceed. I think you see how it works here.

Ms. Miller: Yes. Mr. Chair, members of the committee, my name is Maria Miller. I'm the chair of the Indoor Air Quality Work Group that's associated with South Riverdale Community Health Centre.

Our group was formed in 1992 to address indoor air quality issues in our community and to advocate for improved indoor air quality. Among our other projects, we have published a book for families on improving indoor air quality in the home. We've worked in the schools, particularly in one school in south Riverdale, Blake Street school, to improve poor air quality and we've produced a video about the process of doing that.

"Avoid tobacco smoke. Eat more fruit and vegetables. Drink alcohol modestly, if at all. Be physically active. Pay attention to the environment in which you work and live to avoid exposures that may be harmful."

This good advice is from an article entitled "Seven Ways to Beat Cancer" posted on the website of the Ontario Ministry of Health Promotion. I'm sure you can see the problem posed by this quote because, as things stand now, Ontario citizens are just not going to be able to avoid exposures that may be harmful.

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This is an issue for government; it's an issue for the Ontario government. If Bill 164 is not an issue for the Ontario government, then why do we have a Ministry of Health? Why do we have a Ministry of the Environment? Why do we have a Ministry of Health Promotion? Why do we have a Ministry of Government Services in this province? This province has got to look after the health concerns of its citizens. This is why it's important to pass Bill 164, The Community Right to Know Act, brought forward by MPP Peter Tabuns.

It's important to pass Bill 164 because over the years the nature of our physical environment has changed. According to Environment Canada, in 2003 Ontario regulations allowed over 7,000 tonnes of hazardous materials to be legally released into the air and water of Toronto alone. There are now more chemicals in our environment than ever before. Many of these chemicals are known or suspected to cause cancer, to cause or aggravate respiratory problems, to damage animal and human reproductive systems, to disrupt the hormone balance, to affect physical and mental growth and development in children and to lead to other chronic health problems. In addition to that, science has shown that repeated exposures to very low levels of toxins over the long term can have a significant impact on human health.

It's important to pass Bill 164 because our human senses are just not able to detect and identify harmful chemicals in our environment. We have no way of knowing when we are being exposed to harmful chemicals unless the government acts to provide that information. Ontario citizens are entitled to information about hazardous substances in their communities and harmful ingredients in their products.

Passing Bill 164 will strengthen the understanding of the connections between health and the environment, educate citizens so they can reduce their exposures to toxins, strengthen environmental protection and provide an incentive to industry to reduce toxins. Passing Bill 164 will ultimately lead to healthier and more productive citizens.

I do not think that this in any way means that the Ontario government is passing along the responsibility to its citizens. Bill 164 will be the first step in identifying harmful toxins that Ontario's citizens are exposed to. It does not get the Ontario government off the hook, but it can be a first step in improving our health.

Ontario citizens should have the right to have the information to make informed choices. It is unethical to hide or to allow to be hidden information that adversely affects the health of the people of Ontario.

I have a right to know whether there are any ingredients in this bath gel that I use every day that could harm me. I have no way of knowing that now. I have a right to know whether this lipstick has trace amounts of arsenic, which I heard it might have. I have no way of knowing that now. I have a right to know whether this dishwashing liquid that I use every day is harming my health every day, little by little, with use. I don't know. I

just want to know. And I think that everybody else in Ontario should have the right to know too. Then we can do what we want about it.

Bill 164 needs to be passed into law now, irrespective of expected or possible actions at some future date by other levels of government. Ontarians are at risk now and have been for some time, and delay will only increase their exposures.

I don't think the Ontario government should give an excuse to the federal government to delay another 20 years in passing effective legislation that will help Ontarians and other Canadians to improve their health. I think the Ontario government should be proactive, should take a leadership role in this, and when all levels of government are involved, maybe something will happen.

I'd like to end with another quote: "Our goal ... is to promote a fair, safe and informed marketplace—one in which your rights as a consumer are fully protected." You can probably guess where this quote is from. It's from the website of the Ontario Ministry of Government Services.

Bill 164 will allow government to do what it has pledged to do. It will be a step in allowing our provincial government to do what it has pledged to do. It's essential to the health of Ontario citizens. Bill 164 supports the stated goals of the government of Ontario and it fulfills government's obligation, to an extent, to protect its citizens. It's time to put your money where your mouth is. Every government website you see will tell you it's there for the welfare of the people of Ontario. It's time the government follows this up with a tool to make that happen, and Bill 164 is that tool.

The Chair: We have about two minutes. To the government side.

Mr. Dhillon: Thank you, Ms. Miller, for your presentation. I think we're all in agreement about being advised of what's in the items that we use on a day-to-day basis and I think a responsible approach has to be taken as to how best to address that. If we look at examples, say in Vermont, which is approximately one ninth the size of Ontario, the labelling program failed. I believe they have a little over 3,000 retailers. There were a lot of problems with compliance etc. So that's one of the problems that we foresee. The federal government has invested a considerable amount of resources. They're much more equipped, I believe, in handling this matter. What's your opinion on that?

Ms. Miller: Well, I think the more levels of government that are involved in any kind of change that's important and necessary, the better. It just means that eventually it will get sorted out in terms of whose responsibility is whose, but to move the process forward you need to have everybody involved.

Mr. Dhillon: Is that responsible if we say eventually it will work itself out, instead of having a concrete solution?

Ms. Miller: I don't think anybody has a concrete solution right now. I think it's all going to be trial and error. You've got to look at it, figure out what you think

is the most reasonable way to proceed and then try it, because this is something that's still being tested.

Ontario should be leaders in this. Lately, you and your colleagues have been making great decisions on behalf of our environmental health and our environment with respect to the light bulbs, and you're expected to lead the discussion in the country because of making that kind of decision. So you need to be proactive. You need to do what's the best thing and the rest of it will fall in place. You can't know what's going to happen before you've done it. You can try to anticipate, but you've got to take the steps and try it and not use it as an excuse not to do anything or to wait for a government that has really not been very effective in 20 years to do something. That's irresponsible and it's not ethical. You have to look after your citizens.

The Chair: Thank you so much.

CANADIAN CANCER SOCIETY, ONTARIO DIVISION

The Chair: The Canadian Cancer Society, Ontario division, please. Please tell us who you are and then entreat us with your presentation.

Ms. Rowena Pinto: Good morning. My name is Rowena Pinto and I'm the director of prevention and public issues for the Ontario division of the Canadian Cancer Society. I'm here with Jordan Beischlag, senior coordinator of public issues, also with the society.

Thank you very much for giving us the opportunity to speak to you today about the importance of community right-to-know legislation in Ontario. Today we are here to express our support for the passage and implementation of Bill 164, Community Right to Know Act (Disclosure of Toxins and Pollutants).

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As I am sure you are aware, cancer is a leading health issue in Ontario. This year alone, approximately 59,500 Ontarians will be diagnosed with cancer and 26,900 deaths from cancer will occur.

Province-wide concern about environmental contaminants is evident. There is public demand to know about the use of known, probable or possible carcinogens throughout Ontario communities. Many communities across Ontario are taking precautionary measures when it comes to cancer and the environment. To provide you with an example, as of March 2007, 21 communities across Ontario have adopted bylaws banning the use of ornamental pesticides, with five additional bylaws still pending.

The Canadian Cancer Society strongly believes that all Ontarians have the right to know if they are being exposed to substances that are known or probable carcinogens. The proposed amendments to the Consumer Protection Act, the Environmental Protection Act and the Occupational Health and Safety Act would entrench community right to know as an important aspect in ensuring human health and environmental protection for the province of Ontario.

As community members, workers and consumers, we all have the right to know about the environmental and occupational risks that we are being exposed to and to make informed decisions that may affect our health and the environment that we live in. Enacting community right to know legislation would allow each of us access to information on chemicals present in our communities; harmful ingredients that are in our products, some that we may be using each and every day; and the health impacts of our occupations and workplaces.

In addition, the society would like to put forward two further recommendations that we think would strengthen the bill. While Bill 164 does not outline the details of how consumers would be alerted to carcinogens that exist in consumer products, we would recommend that any listing be accompanied with a clearly recognizable symbol or visual element that would alert the consumer to the presence of a known or probable carcinogen. In only listing ingredients of a product, the onus remains on the consumer to conduct his or her own research on each ingredient to determine whether it might be a known or probable carcinogen. A recognizable symbol, such as we see on flammable or recyclable products, would assist consumers in a user-friendly way to understand the information provided so that informed choices could be made immediately upon consideration of a purchase. This is a recommendation that should be implemented to ensure the effectiveness of Bill 164 in meeting its objectives. This recommendation is supported by the Canadian Strategy for Cancer Control's National Environmental and Occupational Exposures Committee, which is made up of a number of key cancer experts, including the Canadian Cancer Society.

The committee also states that information disclosure and labelling are key priorities in addressing environmental and occupational exposures to carcinogens. As you might know, an example of a first step towards product labelling in Canada was that, as of November 16, 2006, cosmetics manufacturers in Canada were required to include all ingredients on their product labels. However, there is no requirement for cosmetics manufacturers to clearly indicate if the product contains a cancer-causing substance. As mentioned, mandatory disclosure of ingredients in cosmetics is a good first step, but a clearly recognizable symbol or visual element is a user-friendly way to inform consumers that a product contains a known or probable carcinogen.

Internationally, such a system does exist in some jurisdictions. For example, in California, a regulation called Proposition 65 requires a clear warning label on products that contain a cancer-causing substance.

Our second recommendation for improvement to the bill is the following: The Canadian Cancer Society recommends that the US National Toxicology Program list of known and reasonably anticipated carcinogens be considered in addition to the International Agency for Research on Cancer's list. To ensure due diligence, it is recommended that more than one list be consulted in the event that the NTP list encompasses additional carcino-

gens that are not identified on the IARC list. By using more than one list, the government of Ontario would be able to provide Ontarians with more confidence that a comprehensive list of substances has been considered, furthering protection of their health and the environment.

Canada as a whole is lagging behind in ensuring information disclosure and entrenching community right to know in legislation. Currently in Canada, a number of strategies exist around individual environmental carcinogens such as tobacco smoke and benzene. However, comprehensive environmental carcinogen control legislation such as community right to know does not exist.

The most important statute available in Canada providing public access to information on environmental contaminants is the Canadian Environmental Protection Act. CEPA also sets the framework for assessment and risk management of substances deemed toxic, including environmental contaminants. However, while CEPA is important legislation, there are gaps in the act. One key gap is that it does not target carcinogens, and although some protection from environmental contaminants is provided through federally regulated CEPA, this legislation should not preclude Ontario from being a leader in enacting community right to know legislation. This government has proven its leadership time and time again through Smoke-Free Ontario and the recent introduction of a colorectal cancer screening program, which has actually enabled the rest of the country to follow suit. We would ask for this to happen as well.

Internationally, Europe has positioned itself as a global leader in regard to chemical legislation and community right to know through amendments to its cosmetics directive, which banned the use of chemicals that are known to cause or strongly suspected of causing cancer, mutation or birth defects. The newly implemented registration, evaluation, authorization and restriction of chemicals legislation requires producers and users of an estimated 30,000 chemicals in Europe to register them and provide information on their production, use, hazard and exposure potential. The regulation gives greater responsibility to industry to manage the risk from chemicals and to provide safety information on the substances. The regulation also calls for the progressive substitution of the most dangerous chemicals when suitable alternatives have been identified.

In conclusion, the Canadian Cancer Society would like to reiterate its support for the implementation and passage of Bill 164, community right to know. We believe that all Ontarians have the right to know if they are being exposed to substances that are known or probable carcinogens. We would really like to see Ontario once again be a leader in this area.

The Chair: Thank you very much. We have two minutes. We'll go to the opposition.

Ms. Scott: Thank you very much for appearing here before us today and for your presentation. Certainly we all agree with the principle of the community right to know and fewer carcinogens that our public is exposed to. It's an education system. There has been a lot of talk

of the provincial, the federal—you brought up about a different emblem or label to say, “This ingredient is carcinogenic.” We’re trying to find the most effective way to educate the public. You said that you want the province to have a role, but we need to have a clearinghouse, if you will, of how we’re going to do this properly, because we’ve heard from different groups that if we don’t do it right, we’re just going down a path that it’s not going to be implemented. I know that you’ve agreed that more lists need to be looked at. Could you just comment, in the short time that you have, about how you’d like to see this clearinghouse or some type of model used, because we don’t want a patchwork?

Ms. Pinto: I think that there are a number of other jurisdictions, both in the States and in Europe, that can provide us with a lot of direction in terms of how this can best be implemented. You’re right: There are a number of different options, and probably, as usual, Ontario will need to find the right option for itself. I think that just the passage of Bill 164 will enable groups to get together to discuss and further decide on what the best way to pursue this is. As this legislation doesn’t exist already in Canada, it’s hard for me to say what will work and what will not work, but I think there are a lot of really key examples, especially from Europe, that we can look to, and in parts of the States as well, that can really give us some really good direction in terms of where Ontario should go.

The Chair: Thank you.

Ms. Scott: Thank you very much for all the work you do as the Canadian Cancer Society.

The Chair: By the way, I just wanted to say a word of thanks on behalf of all 103 members of the Legislative Assembly for the little tanning gift pack. I was looking for another pair of sunglasses; I’d lost mine, so they came in handy. Thank you so much for that. Very thoughtful.

Ms. Pinto: I’m glad you enjoyed it.

TORONTO CANCER PREVENTION COALITION

The Chair: The Toronto Cancer Prevention Coalition. Welcome. Another one of my heroes.

Ms. Fiona Nelson: Mr. Chair and ladies and gentlemen, it’s a great pleasure to present to you today in support of Bill 164. The Toronto Cancer Prevention Coalition was founded at the turn of the century—2000, I mean—as a result of an extremely important report that went to the board of health about 10 environmental carcinogens, written by somebody who, I’m sure, is very familiar to all of you: our former medical officer of health, Dr. Sheela Basrur. So the Toronto Cancer Prevention Coalition has had a very strong sense of the environmental connections to cancer, and we are very much in favour of community right to know.

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We firmly support the legislation. The bill provides for labelling of consumer products that contain carcinogens internationally classified by the World Health Organization, the International Agency for Research on

Cancer, and creates an Ontario pollution inventory. It is our feeling that Ontario must take the lead in this, because it doesn’t matter where legislation originates: If there has been good leadership, it eventually spreads to other areas. So it seems important for us in Ontario to take the lead.

The community right to know is a key piece of the Toronto Cancer Prevention Coalition’s action plan. It was endorsed by Toronto’s board of health and adopted by city council in May 2001—without amendment, I might add. More recently, community right to know emerged as one of the key priorities at a recent conference we held on the subject of cancer and the environment. Community right to know has been identified as a best practice in cancer prevention and in environmental health. The principle of community right to know is that individuals are entitled to information about chemical hazards present in our environment. They have a right to know about chemicals in communities, harmful ingredients in products, and the health impacts of our occupations and workplaces. Such information allows individuals and communities to make informed decisions and encourages proactive improvement by businesses and organizations. This is particularly critical for children. They are at greatest risk because they accumulate the carcinogens the longest. They are, in effect, our canaries in the mineshaft.

It seems to me that, in contrast, Ontario and Canada lag far behind other places in community right to know legislation as a successful and central part of environmental policy. We need an endorsement of the core principle of public health, which is the precautionary principle. To that end, there obviously has to be a great deal of public education so that people know how to interpret the information they are getting. Information properly communicated leads to the appropriate action.

We have a good grasp in our society of infectious diseases; however, as people live longer, chronic disease is becoming more and more of a problem, and key among those, of course, is cancer. We need to make sure that as people have exposure for longer and longer periods in their lives, we want them to live long and healthy lives.

I should point out also, on a personal note, that as the grandmother of three, I want the environment to improve for the children. So I would like to end by saying that wherever the leadership comes from, we should follow it. In this case, Bill 164 is a form of leadership that will enable us all to live longer and healthier lives. To that end, I would like to remind you that children should come first in your consideration because they will live longer than we do, and all of us care extremely much about our children. This legislation will help us to make choices on their behalf as well as our own.

I would be happy to answer any questions you might have.

The Chair: Thank you so much for your presentation. We have about three and a half minutes and I’m going to give that to Mr. Tabuns.

Mr. Tabuns: Thank you very much, Fiona. I note that the medical officer of health for the city of Toronto has also endorsed this bill.

Ms. Nelson: Oh, yes. The board of health endorsed it unanimously and so did city council.

Mr. Tabuns: So did city council? Excellent.

Can you tell us a bit about how you see using this bill as a tool to further cancer prevention strategies?

Ms. Nelson: Any information that enables people to make sensible choices advances general health. It seems to me that whether it's in the workplace or in the home, purchasing, or in the general environment—in the air, water and soil—people need to have better information. I'm not talking about scaring the pants off them; I'm talking about making sure they know they have choices and that they can exercise those choices as workers or as consumers. At the moment, I think there's a bit of scaring going on, but they need real information, and that includes how to find out what's going on.

We can't assume (a) that everybody's got a computer and knows how to use it, (b) that they speak English, and (c) that they have the educational level of a professional chemist. It's not going to do any good to give you a list of a whole lot of chemicals. You need also to follow that up with a very comprehensive public education campaign. I'm sure that would flow from any regulations that would be embodied in this legislation.

Mr. Tabuns: The Toronto Cancer Prevention Coalition—can you tell us a bit about their work and why they came together?

Ms. Nelson: As I say, Dr. Sheela Basrur produced this report on 10 environmental carcinogens, and it included a recommendation that this group be set up. It was very prescient of her, I think, to have done that. It is composed of several working groups: environmental is one; sun safety is another, in general, things to do with skin cancer and that sort of thing; alcohol—most people don't realize that alcohol is a carcinogen of some significance; and obviously, the tobacco working group. So there are several of them, and they're composed of professionals and laypeople who are interested in those areas and give a great deal of time to the development of policy for the board of health and city council to enact. And since Toronto is a fairly big chunk of the province, if we enact legislation, it often has a runoff effect on others.

The Chair: Thank you very much.

Ms. Nelson: Thank you.

RUTH GRIER

The Chair: The Ontario Professional Fire Fighters Association—they're not here, but Mrs. Grier is. Is Mrs. Grier prepared to—welcome, Ruth.

Mrs. Ruth Grier: At the drop of a hat.

The Chair: Okay.

Mrs. Grier: Thank you, Mr. Chair, and members of the committee. I'm a member of the Toronto Cancer Prevention Coalition, which Fiona chairs, and part of the environmental and occupational working group. Over the

last couple of years, there has been a Provincial Cancer Prevention and Screening Council, which was formed by Cancer Care Ontario and the Canadian Cancer Society, Ontario branch, so I've been working with them on the same issues.

You may be interested to know that earlier this year, CCS and CCO held a forum on toxics use reduction and brought in representatives from Massachusetts, where the Toxics Use Reduction Institute has been in place for 10 years. Essentially, the government works with industry to find substitutions. You've heard mention today of the principle of substitution, which is a fairly important one. Coincidentally, in the discussions in Ottawa around the Clean Air Act, which has been top of mind, the all-party committee amending the Clean Air Act that was introduced by the Conservative government came unanimously, with the support of the government members, to agreement on an amendment to that legislation that enshrined the principle of substitution, that where there are known toxic substances, the government would work to find substitutes for them.

Sometimes, that isn't complicated. In the Big Four auto industry in Ontario many years ago, the CAW negotiated a list of carcinogens that would no longer be used in the plants, and they found that one carcinogenic lubricant could be replaced by vegetable oil. So it was a very simple substitution, but somebody just had the information to make it happen.

I really appreciate this hearing and the fact that you've been prepared to listen to so many points of view on this important bill. It is the first step down a road on which Ontario has already started. I wanted to put it for you in the context of the work that began with WHMIS, which, as you've heard, was fairly groundbreaking and unfortunately now needs to be restored, by the amendment that was suggested by Andy King, to the strength and the power that it had in the early 1990s.

The other example, of course, is the Environmental Bill of Rights, which started as a private member's bill from the late Mrs. Bryden, a member of the same area as Mr. Tabuns, but then was introduced as a private member's bill by Murray Elston when he was a Liberal backbencher, carried forward by me as Minister of the Environment, and had very much all-party support. It was thrashed through by all of the parties and agreed to, and I think it has survived the change of government in 1995. That's a testimony to the role that it now plays in the panorama of environmental legislation that we have in this province.

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I know that the commissioner's reports can sometimes make Ministers of the Environment of all stripes uncomfortable, but then, that's what accountability is. The shedding of the light that that bill allows, both on the role of the commissioner and the public access to the registry, is very important. The putting in place of that electronic registry was a real innovation back in the early 1990s when the electronic means of information was not as available as it is today. So you have done good things

here in Ontario, and I think moving forward on right-to-know is just a further step in that progress.

It's interesting that most of the emphasis from the people who have concerns about this bill today has been related to the consumer protection amendments and the labelling. I'd like to take it from that that there really is no concern about the amendments to the Environmental Protection Act that are also part of this bill, and I fully support the presentation made by CELA.

I would like to correct one thing that was said by a previous deputant, who said that the certificates of approval from the ministry are on the registry. They're on the registry when you apply for a certificate of approval, so notification is there, but the actual details of what is eventually negotiated and the terms and conditions and the length of time and all of that of the certificate of approval cannot be found. One of the things we did in Toronto was use the south Riverdale area as a case study to see what people could find out about what was in their neighbourhood. You probably have all seen the map that was put out of Toronto with the national pollutant release inventory data allocated across the city. That is only the data from the major polluters that are submitted to Environment Canada. When we tried to find out what the auto body shops, the print shops, the photographic shops—all of the small industries in an area such as south Riverdale—were using, we were told, "Go to the certificates of approval." But the ministry doesn't categorize the certificates of approval. A company may have it in the name of a numbered company, so you can't find out whether that auto body shop or that print shop has a certificate of approval. You saw from the Environmental Commissioner's report just this week that there are problems with even monitoring them.

So it's important for you to understand that as you look at Bill 164 and the environmental protection amendments, there is no requirement on the government to collect any new information in the amendments that are suggested in this bill. All it really asks is that the information the Ministry of the Environment and other ministries now collect be made available in a form that is accessible to the public. Because if the public can find out what's happening in their neighbourhood—with real estate agents trying to sell a house, health groups, environmental groups—all of that leads to greater education, greater awareness, greater activity and a greater ability to require governments at all levels to act.

Certainly, it was my experience as minister and in my voluntary work since then that most companies want to do the right thing. They live by the legislation and the regulations that are there, and if people can hold them accountable to that by knowing what is being admitted—because they are not living up to, perhaps, the certificates of approval that they were given—then it stands us all in better stead. And the arguments with respect to our health, with respect to our children, with respect to cancer, are there in the very many excellent presentations that you've had.

So I do urge the committee in a non-partisan way to look at the bill, to incorporate perhaps some of the

changes that have been recommended to you today, but to try to move forward. It's a piece of legislation that I think is not groundbreaking, in that it is there in many other jurisdictions, but would be groundbreaking for this province and would lead to significant change all across the country.

The Chair: Ruth, thank you very much. We appreciate your perspective. There is only half a minute left, so I think we'll go right on to our final person. A question worth asking you couldn't answer in half a minute, right?

Mrs. Grier: I have been known to "Yes" or "No" sometimes.

The Chair: Thank you.

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Chair: We call on the Ontario Professional Fire Fighters Association. I think you know how this works. You introduce yourself for the record. You have 10 minutes; if you take less than that, we'll go to a couple of questions. Welcome.

Mr. Brian George: Good afternoon, Chair and committee members. My name is Brian George. I'm the executive vice-president of the Ontario Professional Firefighters Association. With me today is Jeff Braun Jackson, the OPFFA's research and office manager.

The Ontario Professional Fire Fighters Association represents approximately 10,000 professional firefighters across Ontario. The OPFFA serves our members' interests in many ways: from education to representation on matters concerning health and safety, workers' compensation, pensions and legislation. Our membership consists of full-time professional firefighters who engage in emergency response, prevention, public education, investigation, training, communications and maintenance. Our code of ethics details our commitment to the protection and preservation of life and property.

We are pleased to share our views on this proposed legislation, Bill 164, the Community Right to Know Act, 2006, with the standing committee of the Legislative Assembly. Bill 164 seeks to amend three existing statutes: the Consumer Protection Act, the Environmental Protection Act and the Occupational Health and Safety Act. We will restrict our comments to the proposed amendment to the Occupational Health and Safety Act as it is covered within our jurisdiction.

Bill 164 seeks to delete clause 38(1)(d) of the Occupational Health and Safety Act, which reads as follows:

"A copy of every unexpired material safety data sheet required by this part in respect of hazardous materials in a workplace shall be,...

"(d) furnished by the employer on request or if so prescribed to the fire department which serves the location in which the workplace is located."

In place of the existing clause, Bill 164 seeks to remove the phrase "on request or if so prescribed." The intent is to amend the Occupational Health and Safety Act so that employers would be required to submit

material safety data sheets to their local fire departments. This information, according to the sponsor of the bill, would enable firefighters to know what kinds of hazardous materials are on site when called to an incident.

The OPFFA has a strong commitment to the occupational health and safety of our members. We actively work with the Ministry of Labour, the Workplace Safety and Insurance Board and with the Office of the Fire Marshal to ensure that our members are educated and trained to protect themselves. We support efforts that improve firefighter safety and public safety at all levels.

The bill's sponsor, Peter Tabuns, NDP, Toronto-Danforth, states that the proposed amendment to the Occupational Health and Safety Act "will be of tremendous utility to firefighters' knowing what they're encountering when they go to a scene." We are in agreement with the sponsor that having access to material safety data sheets is critical. However, we have several concerns about requiring employers to supply these data sheets to our departments.

Debates requiring employers to provide the MSDS sheets go back over 20 years. The Peterson government passed legislation in 1987 governing hazardous materials. Debates have centred around the issues of employers and building owners supplying the proper documentation to fire departments to identify hazardous materials and where the proper storage of this documentation should be.

Section 38 of the Occupational Health and Safety Act was originally drafted as part of a Hazardous Materials Information Review Act. Consultations with the fire service occurred through the section 21 committees with the participation of the Ministry of Labour. At that time, the late 1980s, fire departments indicated that they did not want to automatically receive MSDS sheets. Why? Because the fire departments then, and now, still do not have the ability to administer, process and store the amount of information received from employers and building owners. Fire departments generally lacked resources to ensure that this information would be useful to our members.

Most fire departments did not have sufficient budgets to provide on-board computers for their trucks or to set up and administer databases containing the information provided by the MSDS sheets. The current legislation allows the public to obtain information about hazardous materials used in workplaces within their communities.

Over the last two decades, debates have occurred with respect to requiring employers to provide the material safety data sheets to the fire departments. We welcome these debates because they raise public awareness about the inherent dangers of our chosen profession.

We are committed to the health and safety of our members and the public, and we continue to lobby for improvements in equipment and training. Nonetheless, we do have some concerns about Bill 164 with respect to amending section 38 of the Occupational Health and Safety Act. Our concerns are about the cost of setting up, administering and maintaining a data storage system for

the MSDS sheets; the ability of our smaller departments to have staff available to maintain that information; the lack of technological support and equipment to get the information out to the field in an efficient manner; and to better use the scarce resources to hire additional fire inspectors and prevention officers to visit these employers and buildings in our communities.

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We support the efforts to improve the health and safety of our members and the public. As laudable as this goal is, sufficient budgetary resources need to be provided to make this a reality. Until and unless additional financing is given, it remains problematic for fire departments to create information management systems to store these MSD sheets. An information management system requires computer support, staffing for inputting and dissemination of data, and funds to maintain those sites. Fire departments across the province are already under-resourced, and to place an additional demand on them at this time is unfair.

Our departments vary tremendously with respect to size and capabilities. Larger departments may be able to leverage additional resources from municipalities to finance upgrades to both technology and equipment. However, for many of our small departments, there is simply not enough money or manpower to take on the burden of storing MSD sheets. Many of our small departments are found in rural and remote areas of the province, where the municipalities that operate them are fiscally challenged already.

Funds simply cannot be found within existing budgets to hire additional staff, finance a costly start-up of a database and keep that system maintained. Even if a department has the resources to create a data and information management system, how does it get this information out to the field in an efficient way? Few of our departments have the ability to get the information contained within the MSD sheets to our firefighters on the ground. Few of the municipalities have on-board computer systems on their trucks to provide the locations of hazardous materials, and firefighters do not generally carry electronic devices that could contain this information. Having the information is important, but if it cannot be delivered to those who would most benefit from having it, there's no sense in it.

We would happily support a proposal that would provide funding for departments to update computer equipment and equip trucks with on-board data information systems. However, Bill 164 does not call for additional funding, and therefore it would be quite difficult for our departments to find the means of getting this information out to the field when an incident occurs. The liability for them having that information accessible would be then transferred to the fire departments.

We feel that the current system in place is acceptable. Instead of amending clause 38(1)(d) of the Occupational Health and Safety Act, we would suggest that the bill's sponsor call for increasing funding for staffing and technological upgrades for Ontario's fire departments and

firefighters. The funds currently provided for fire department budgets are already stretched to the limit. Unless government is willing to increase funding, we feel it is simply not feasible to expect fire departments to establish a system for storing the MSD sheets.

In conclusion, the OPFFA is committed to improving the health and safety of our members and the public. We support legislation that seeks to do this and we are in agreement with the broad goals of Bill 164. However, we are well aware that we live in fiscally challenging times and that governments at all levels must allocate scarce budgetary resources in the most effective and efficient manner. We feel that it would make better policy if the Occupational Health and Safety Act is left as is, and instead give additional resources to hire inspectors, prevention officers and purchase technological supports. This would give fire departments the ability to get the information into the hands of firefighters who are at the scene of an incident. These improvements would do much to assist our members in being able to assess the level of risk at a given site rather than simply requiring all employers across the province to submit MSD sheets to their local fire departments.

We thank you for the opportunity to be here before the committee today. If time is still available, we'd be happy to answer any questions.

The Chair: Thank you very much. There are two minutes, and we'll go to the government side.

Mr. Dhillon: Thank you very much for your—

Mr. Tabuns: Sorry, Mr. Dhillon. Mr. Chair, I need to note this: A private member's bill can't allocate spending, which is why there is no allocation in here for spending. I understand your logic.

Mr. George: Thank you. I wasn't aware of that.

The Chair: Go ahead.

Mr. Dhillon: I just have one question. Let's assume the resources were available. How beneficial do you think this would be to the fire departments?

Mr. George: Having that information there would be extremely beneficial to the firefighters on the scene. But as I stated, the problem is getting accurate information to the incident. If it's stored in a database in the fire department's administration with no way of getting it out to the scene, it's of virtually no use for us.

Mr. Dhillon: So there could be problems in the future.

Mr. George: Yes. Some of the larger departments do have the on-board terminals on the trucks, but there are very few. I know in Toronto they do have it, but that's one of the few departments that does have on-board data terminals.

Mr. Dhillon: It would be very difficult to manoeuvre and use the information.

Mr. George: Yes.

Mr. Dhillon: Thank you.

The Chair: Last word to you, Mr. Tabuns—about one minute.

Mr. Tabuns: I'd like to thank you for coming and speaking today. As I said earlier, we don't have the ability in a private member's bill to make those allo-

cations. Certainly when I've talked to people at the Toronto Fire Fighters, they understood the utility. I've actually had firefighters come to me to talk about their concern about going into a place where toxic chemicals are stored and they don't have that information.

Beyond your brief today, I'd like to thank all of those who came and spoke. I think that the fight against cancer and the fight to protect workers, including firefighters, in their workplaces is a crucial one. Many of the arguments I've heard today I heard in the 1990s when we were getting into the fight on tobacco smoke. I wasn't surprised. I know that this is going to be a long haul. Thank you, Mr. Chair.

The Chair: Thanks, Mr. Tabuns. Thank you, gentlemen. On behalf of the committee and all its members, I'd also like to join in thanking all those who took time to share their wise counsel with the committee this morning.

The committee will recess until 4 o'clock. At 4 o'clock, we will reconvene in committee room 1, which is downstairs, to deal with clause-by-clause consideration of Bill 67, An Act to amend various Acts to require a declaration with respect to the donation of organs and tissue on death.

The committee is adjourned.

The committee recessed from 1156 to 1602 and resumed in committee room 1.

ORGAN AND TISSUE DONATION MANDATORY DECLARATION ACT, 2007

LOI DE 2007 EXIGEANT UNE DÉCLARATION AU SUJET DU DON D'ORGANES ET DE TISSU

Consideration of Bill 67, An Act to amend various Acts to require a declaration with respect to the donation of organs and tissue on death / Projet de loi 67, Loi modifiant diverses lois pour exiger que soit faite une déclaration au sujet du don d'organes et de tissu au moment du décès.

The Chair: Members of the committee, we're dealing with Bill 67, An Act to amend various Acts to require a declaration with respect to the donation of organs and tissue on death, put forward by Mr. Klees. Are there any questions, comments or amendments to any section of the bill and, if so, to which section? Section 1, we have an amendment. Mr. Klees?

Mr. Frank Klees (Oak Ridges): Yes, thank you, Chair. I actually have two amendments, one to section 1. If I could move it, then I'll give you the explanation for it.

I move that subsection 11(5) of the Health Insurance Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Contents of declaration

"(5) The person completing the declaration shall specify whether the person is willing to donate his or her organs or tissue on death by checking one of the following boxes:

"1. Yes/Oui.

"2. No/Non.

"3. Undecided/Aucune décision.

"Donation

"(5.1) If the person completing the declaration specifies that the person is willing to donate his or her organs or tissue on death, the application for the issuance or renewal of the health card is not complete unless it contains a direction, in the prescribed form, from the person as to the use that the person requires be made of his or her organs on death."

If you'll recall, during the committee hearings on this, there was concern expressed that the original bill does not, in fact, clarify that a person can indicate No in the declaration. There was concern that perhaps there was some intent in the legislation not to provide the No decision. The purpose of this amendment is to clarify that, to make it very clear that no one is being forced into a decision, that in fact the option is Yes, No or Undecided, and then, of course, if the decision is yes, that the specific declaration be made, as it is in any organ donation card, as to what the intent of that individual is.

Mr. Peter Kormos (Niagara Centre): I'm going to support the amendment because I think it completes the bill in the manner that Mr. Klees always intended. But I do now want to very briefly raise this, because I have some concerns about mandated choices; I think everybody does. We all received from Ms. Viets the brief synopsis of the Texas and Virginia experiences in terms of mandated choice. In Texas, of course, it was a straight Yes/No, and in Virginia it was almost identical to what's being proposed here, Yes/No/Undecided.

The experience in mandated choice jurisdictions is that when people are forced to make a choice, they err on the side of No. That was the experience in those two jurisdictions, which then abandoned a mandated choice. However, we don't have any understanding about what type of climate existed in those jurisdictions in terms of the history of organ donors, the type of debate that had gone on publicly, the type of pre-existing values, which is why, in general, I'm going to support this bill after it's amended.

I still have some trepidation about the mandated choice, but we'll not see whether it has the same results in Ontario, or better results, until we experience it. I don't think Mr. Klees is suggesting in any way, shape or form that he's fearful of addressing this matter a year, two years, three years down the road once valid data has been acquired.

One of the things the bill does is it makes it easier to make a choice, as compared to locating an organ donor card on the Internet or through some service agency. Most people have drivers' licences and darned near everybody has an OHIP card. Those are also two documents that you're more likely to carry with you on a regular basis, as compared to an organ donor card. And I acknowledge I've signed many in the course—I sign half a dozen a year because I keep misplacing them; they're in one wallet or another; they're flimsy paper documents. These are going to be plastic. There's all the capacity to

develop a registry in response to this that doesn't have to be mandated in this legislation. But the process that's prescribed permits a registry in a way that organ donor cards don't, because the data will be acquired by the Ministry of Transportation or the Ministry of Health. While nobody is suggesting that any of them should violate privacy standards, there could be any number of ways whereby people allow this information to be recorded on a central database.

So I'm simply raising the concerns about mandated choice, suggesting that we may be in a different position in Ontario now in 2007 than Texas was in 1991 or Virginia was in 1990, and appreciating that the undecided—although in the Virginia experience, the undecided was treated as—the undecided, in some respects, is a no, but it's perhaps permitting people to not have to be final in their choice. It's leaving doors open for them. It's permitting them to say "Not now, but maybe next time around." That's not a bad thing at all. Everybody is aware of that.

I don't want to be negative in any way about the bill or about the amendment, but if we're aware of that, I think it's a wonderful opportunity to see whether the climate is such that a mandated choice provision can be a positive experience here in Ontario, now in 2007, especially after what has been a pretty dramatic debate around any number of options available to the government in terms of ensuring that organs are available for people who need them.

The Chair: Thank you, Mr. Kormos. Any other comment?

Mr. Kuldip Kular (Bramalea-Gore-Malton-Springdale): In general, I am supportive of the bill, but I want to make a comment on these three options of Yes/No/Undecided. I think there would be people in this province who would like maybe a fourth option of not making a decision, who want to abstain from that, saying they don't want to say yes, they don't want to say no, they're not undecided. I think that would be better. But in general, I support the bill.

I used to work as an emergency physician in one of the local hospitals in Brampton. After the accidents, people used to come in and we would have to ask them about organ donation. Most of the time in motor vehicle accidents, people can't find their driver's licence, and that's not an option. But in general, I support the bill.

1610

Mr. Kormos: Doctor, thank you. So let's cut to the chase here. Let's have this little conversation right here and now, because, you see, in a world that would be more accommodating, somebody—and I don't want to start getting the wacky e-mails and letters, those single-spaced ones with no margins, and the envelopes that are all taped up. You've gotten them, eh? I give them to staff to open.

But look, your OHIP card entitles you to all of those listed medical services, including transplant. And I hear you. Maybe somebody out there might say, "Okay, but why then don't we have a restricted OHIP card for the

person who doesn't want to give their organs?" In other words, the OHIP card will cover everything but organ transplant. Because, you see, it's all about getting as well as about giving. You can't not be prepared to give and then expect to get. You want to be an agnostic—not you, but you're talking about the person who wants to be an agnostic. I'm not sure. I tell you what, though, sir, when that person is told by their doctor that they need a new heart, a new lung, a new liver, a new kidney, they're pretty sure about the fact that they want one, by and large. They're real sure then. There's no agnosticism on the part of the sick person who needs the organ. Oh, boy, do they become converts in short order, I suspect.

Again, there's human nature involved here. There are social values. I'm grateful to the OBA, because they gave us a very valuable paper last week that talked about some of the cultural implications. As some of you know, I am to organs what Laurel Broten is to polite language. I'm pretty matter-of-fact about these things. A lung, a heart, a liver, a kidney—it's just a piece of muscle or whatever the particular organ happens to be, and when I'm dead, heck, take what you want. You'll just be doing the pall-bearers a favour, because there will be less dead weight for them to have to haul out to the cemetery.

So I hear you, but you talk about room for agnosticism? I find it interesting that you would propose that.

Maybe it's good that we're confronting people: You've got to step up, because, once again, when you need one, you're unlikely to be an agnostic. You're unlikely to say, "Well, I'm not sure whether I should take an organ or not to live 10, 15 or 20 more years." Oh, yeah; you want that organ.

I hear you and I respect what you're saying, but it provokes that interesting counterpoint, I suppose.

Mr. Kular: But there might be people in this province who wouldn't be thinking in those terms that day. Even if their heart is not working well, they might say they don't want to get any organ donation. They don't want to have their heart changed; they want to die. There would be people, I'm quite sure. I see patients all the time, and sometimes I discuss such things with them. There are people who would like not to make a decision and they really don't want to put their name on the paper, whether it's the health card or the driver's licence.

Mr. Kormos: And there are cancer patients who decline treatment. But let me speak now—you see, you've provoked me again. Let me speak about this whole business of "gift," Doctor, the gift of an organ.

I tell folks, when I'm in Welland, that I live \$5 away from Queen's Park: It's either a \$5 cab ride or it's a \$5 walk, because there are enough homeless people that you're going to—well, it's true. It takes five bucks to walk here, by and large, in terms of people on the street. When I or any of us drop a loonie into a paper cup, that's not much of a gift. Quite frankly, it doesn't change our budget for the day by any stretch of the imagination. It's not much of a gift at all. You know the parallel: When a poor person throws a loonie into the bucket, that's a gift. So when I'm dead and somebody uses my organs, that's

not really much of a gift. Now, a living donor—whoa. I'm prepared to concede that's a pretty significant gift.

We talked last week about how we create a culture wherein any one of us is as eager to give a kidney—kidneys we've got two of—as we are to give blood for an absolute stranger. I wonder what we have to do to create a value system where we would do that as readily as, for instance, we give blood. Or I suppose you could take a slice of the liver; they regenerate pieces of liver.

I'm grateful to Mr. Klees, because he's been a very important part of the debate that has provoked some thought. You know where I'm at: I'm a "presumed consent" advocate. I still am and will still keep pushing that point. I think Klees has brought us a little bit forward.

I'm not at all upset or concerned about making people make a choice. You've got to take a stand, especially now that more and more people, because of medical advances, are going to be capable of getting transplants. Heck, I remember, and so do you, when Dr. Christiaan Barnard—remember the first heart transplant? It lasted—I don't know—mere days. That was more a miracle than it was science. But those sorts of things are relatively routine now, aren't they? Back then, the prospect of giving an organ, either as a deceased or—that was pretty dramatic. But it's not dramatic anymore; it's day-to-day medical procedure. As I say, people give blood, people give money. It doesn't cost anything to give blood. It doesn't cost a penny. That's really not much of a gift. You might get woozy—I'll never admit to it—but it doesn't cost you anything. For a wealthy person, a middle-class person, for any of us to give money doesn't really cost us very much at all. For a dead person to have an organ used doesn't cost them anything, doesn't cost them a cent, so that's not much of a gift. Maybe that's part of our problem: We dramatize these things, we mythologize about the gift. No, they're not gifts. "Gift" is a living donation; that's a gift.

The Chair: Any more discussion? All those in favour of the amendment? Carried.

Shall section 1, as amended, carry? Carried.

Okay, we'll move to section 2. Are there any amendments? There is an amendment. As George Bush would say, "There are an amendment."

Mr. Klees: Chair, this is the identical amendment that we just agreed to in section 1. This applies to the Highway Traffic Act. I will read it into the record.

I move that subsection 32(13.2) of the Highway Traffic Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Contents of declaration

"(13.2) The person completing the declaration shall specify whether the person is willing to donate his or her organs or tissue on death by checking one of the following boxes:

"1. Yes/Oui.

"2. No/Non.

"3. Undecided/Aucune décision.

"Donation

“(13.2.1) If the person completing the declaration specifies that the person is willing to donate his or her organs or tissue on death, the application for the issuance or renewal of the driver's licence is not complete unless it contains a direction, in the form prescribed by the regulations, from the person as to the use that the person requires be made of his or her organs on death.”

The Chair: Any discussion? All those in favour of the amendment? Carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

How about section 4? Shall it carry? Carried.

Section 5? Carried.

Shall the title of the bill carry? Carried

Shall Bill 67, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

1620

Mr. Kormos: Debate?

The Chair: Yes, of course. Is there any further debate on this bill?

Mr. Kormos: Yes, there is. Of course, I'm going to support reporting the bill back to the House.

I think we should express our gratitude to Mr. Klees once again for wading into the organ donor debate. This bill has been a part of the overall picture that has caused people to reflect on the matter, to rethink it, to perhaps move forward a little bit in their perspective. I personally want to thank Mr. Klees for his enthusiasm and, quite frankly, his thoughtful accommodation of other points of view as well. He has been very accommodating of more radical propositions that he may or may not feel as comfortable supporting, but he understands them to be a part of the debate as well and I appreciate that. He has performed a valuable role in that regard.

He's not here today, but I do want to thank George Marcello. I know that Mr. Klees and I have both spent considerable time with George Marcello. George has been a grassroots advocate for organ donation as well as a two-time recipient of an organ. George has been out there walking across the country raising awareness. Literally, it's been a passion of love on his part. He's impoverished himself doing it. He's made sure that he's at the doorstep of any politician who has shown any interest whatsoever in organ donation to prod, provoke and motivate that politician. I suspect he was on Frank's doorstep and call-back list as often as he was on mine, and I want to say that he was always a welcome guest and that I always value his input.

I know that Mr. Marcello may have felt some disappointment that he wasn't included on the so-called blue ribbon panel that the Minister of Health set up, and I shared his disappointment. I thought George would have been a remarkable layperson and hands-on experienced person to have put on that committee, to have that element of the community represented as well. I apologize to George for him not having been included on that committee, but it's just not the way things happened. That's the end of the story.

At the end of the day, George remains enthusiastic. He is passionate. I am confident that he will, to his dying day—and he'll find some way to do it even after he's dead—force people to reflect on more effective ways of ensuring an adequate supply of organs for people on those tragic waiting lists. It was a question from George to me several years ago now at Notre Dame high school in Welland that prompted me to answer, “Well, presumed consent, of course.” From then, I spent a whole lot of time learning as much as I could about it and other aspects of organ donation and have moved forward advocating for that particular point of view.

I'm grateful as well to all the people who have e-mailed, telephoned and written letters. Some of you have heard from some of the same folks and, if not the same folks, you've heard some of the same kinds of stories that were touching, that were just incredibly warm. It's amazing how storytelling can oftentimes let you look at the world through someone else's eyes. So many of us in this Legislature were blessed for having been given that opportunity. We got the chance to look at the world, to look at life, through someone else's eyes rather than our own. That's a remarkable and magical sort of thing. It's also a very human thing. So I'm very grateful to those people for telling us those stories and letting us see things from a very different perspective.

That's why I get provoked into making comments about how people who aren't prepared to give maybe shouldn't be prepared to get. It's having been given those opportunities to see the world through other people's eyes.

Finally, in terms of my own organs, when I die, I've got a 1994 Chev pickup in reasonably good shape and a whole bunch of organs. I'll have no use for any of them once I'm dead.

Ms. Jennifer F. Mossop (Stoney Creek): Are they in good shape too?

Mr. Kormos: I suspect the pickup is in better shape than some of the organs, but who knows? Because one of the other things I learned is that age is not a factor in organ donation, that a 70-year-old organ can be as valuable as that of a teenager or a young adult. Frank has learned the same thing. That was of some comfort to me. Of course, I take better care of my organs than I did when I was younger, and hopefully there's some recuperative effect of efforts at abstinence over the course of—I quit smoking years ago now. I haven't quit a whole lot of other things.

As I say, when I'm dead, I've got no use for the truck and no use for the organs. If you want them, come and get them, because I've got no particular emotional attachment to them either. So when Ms. Mossop and I go over to the tattoo parlour, we're going to get that tattoo up our belly, the dotted line that says, “Upon death, open here and take what you need.” That'll be a photo op, won't it, Ms. Mossop?

So thank you, Mr. Klees, and thank you, Chair. I look forward to this bill being given some positive consideration by the government. It's consistent, as I understand

it, with the very modest and limited recommendations of the so-called blue ribbon committee. It is, in Swiftian terms, indeed a modest proposal. It won't cost any money to implement, and if it increases the supply of organs by even one organ—I suspect it can do better than that—we'll have served a useful role.

The Chair: Any other comment or debate?

Mr. Klees: If I may—

The Chair: You may.

Mr. Klees: I'm sorry to prolong it, but I want to thank my colleagues in the House, first of all, for allowing this bill to get to this point. The support during second reading and the support here through this committee process is much appreciated.

I want to acknowledge today my constituent Geoffrey Risen, who first brought the issue of organ donation to my attention. This was a gentleman who sat opposite me and shared his agonizing story of the length of time he had been on a waiting list for a kidney, and his health was to the point where he was questioning whether he was going to live much longer. He ended up going to the US, at a cost of \$80,000. He did get a new kidney and his health was remarkably restored. When he came back into my office, it was not the same person. At that point in time, he came to me and asked me for support to help him deal with the post-operative support, which our health care system was not prepared to accommodate. However, it has subsequently, through a great deal of the work and, ultimately, support from OHIP.

I also want to acknowledge Don Cousens, who's a very good friend of mine, a former mayor of Markham and a former member of this Legislature, who now has his second kidney. I lived through his experiences as well, and those of a number of other constituents who brought me face to face with this issue. As a legislator, I was motivated to see what I could do, not to solve the entire issue of organ donation, but if there was some small way I could help in ensuring that there was more opportunity for people to have the same life-saving operation that Mr. Risen had, then I wanted to do that.

I also want to acknowledge George Marcello, for all the reasons that Mr. Kormos has indicated. He's a dedicated individual, an organ recipient himself, and passionate about the issues—sometimes misunderstood. Sometimes his passion perhaps is in advance of where others are, but he's incredibly well-meaning, and, I'm sure, in his own way has made a major contribution as well to this issue.

I want to thank Trillium Gift of Life for their support through this process as well and the work that they're doing; it's ongoing, it's evolving, it's developing.

I also want to thank the citizens' panel, as commissioned by the Minister of Health, and I want to thank him for doing that. Notwithstanding the debates that we've had in terms of timing—soon enough, late enough or whatever—that step was taken by the Minister of Health. It was valuable work that was done—28 recommendations, and a couple of them very consistent with this bill.

As Mr. Kormos indicated, there is not a cost here. It is a very simple administrative measure. I would call on the government to call this bill for third reading to implement it. I realize that there are some very large things that the government can do, coming out of the citizens' recommendations, and that it's going to take some significant legislative initiative. This is one that is simple. It can be done. We can have it implemented. There's certainly no reason why it shouldn't be implemented by the end of this year. I also believe that lives can be saved if we take that step.

I want to thank the many people who sent in petitions. Members will remember that over a period of months there was a volume of petitions that came in from across the province from people who supported this, and I want to thank them for their encouragement in expressing their views on this.

Finally, to my staff, who agonized over this with me over all of that time—they were very significant in helping us move this forward.

So, again, Chair, to this committee, thank you to all for your support. I look forward to seeing this come back to the House for third and final reading and ultimately implementation.

The Chair: Okay, thank you. Anything else? Okay.

Shall Bill 67, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

That completes our work on the bill. Thank you all. Just a reminder before we adjourn that next Thursday morning we'll hold public hearings in room 230 on Bill 161, and we'll be doing clause-by-clause in the afternoon of Mr. Tabuns's bill.

We're adjourned. Thank you.

The committee adjourned at 1632.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 3 May 2007

Jeudi 3 mai 2007

*The committee met at 1002 in room 230.*PROTECTING VULNERABLE WORKERS
ACT (EMPLOYMENT AGENCIES), 2007LOI DE 2007 SUR LA PROTECTION
DES TRAVAILLEURS VULNÉRABLES
(AGENCES DE PLACEMENT)

Consideration of Bill 161, An Act respecting employment agencies / Projet de loi 161, Loi concernant les agences de placement.

The Chair (Mr. Ted McMeekin): Welcome. It's good to see so many smiling faces first thing on a—what's today?—Thursday morning. Today is the day when we hear public presentations with respect to Mr. Dhillon's private member's bill, An Act respecting employment agencies. We'll call for a brief opening statement from Mr. Dhillon, and then we'll go to the public hearings.

Mr. Vic Dhillon (Brampton West–Mississauga): Good morning, Chair, committee members and presenters. First of all, I want to thank everybody from all parties for helping me in this very important bill. I want to thank the members of the public and the business community who have assisted me as well by making their contribution.

I just want to start by saying why I presented this bill. My riding of Brampton West–Mississauga and Brampton and Mississauga are home to many newcomers who come to Ontario, and their first effort for employment usually begins through a temp employment agency. Since being elected, and prior to being elected, I've heard firsthand the horror stories of people not being paid for work done, not getting appropriate vacation time, not getting appropriate breaks, not getting overtime pay or minimum legal wage. Those are just a few symptoms of this whole problem. As legislators, it's our job to prevent these things from happening.

I'm very thankful that I've been given the opportunity to present this bill, and I very much look forward to the input of all the stakeholders and people who are here to present, in the hope that I'll be able to bring forth appropriate amendments to address this long-overdue problem. Thank you very much, Chair.

The Chair: Thank you, Mr. Dhillon. We look forward to hearing what the public has to say about your idea.

WORKERS' ACTION CENTRE

The Chair: We'll begin with the first presenter, Parkdale Community Legal Services. Good morning.

Ms. Karen Dick: First of all, I'm not Elisabeth Bruckmann from Parkdale Community Legal Services.

The Chair: I was going to say you don't look like Elisabeth to me.

Ms. Dick: Elisabeth called earlier and left a message with Tonia's office that we're going to be switching places. I'm Karen Dick from the Workers' Action Centre.

The Chair: Okay, and that's okay with Elisabeth?

Ms. Dick: We're submitting a joint submission. We work in partnership.

The Chair: Okay, very good.

Ms. Dick: First of all, thank you for giving us the opportunity to address the committee on the need to regulate the temp industry and particularly for the attention that Bill 161 has brought to the plight of temp workers. In particular, thanks to Mr. Dhillon.

For those of you who don't know the Workers' Action Centre, we're a workers' rights organization in Toronto committed to organizing non-unionized workers, particularly temp workers and other low-paid workers in precarious work. Most of our members are workers of colour, new immigrants and women workers.

For the past seven years, we've been working with temp workers and documenting the violations that are unfortunately quite rampant in this unregulated industry. We see an overrepresentation of women, immigrants and racialized communities in the lowest-paying sectors of temp work, as Mr. Dhillon has pointed out. We see fly-by-night agencies working out of basements and apartment buildings where workers are not paid at all for their work. We see people being paid well below the legal minimum wage.

This is an industry where temp workers already make 40% less than their permanent counterparts. Most temp workers we need have never been paid public holiday pay. We regularly see illegal deductions taken from people's wages: administrative fees or penalties when people don't show up for work. We see fees or fines for placement agencies, which is a barrier to workers being hired permanently by client companies. Workers are often sent home without the three-hour minimum pay they're entitled to under the law.

More recently, we're seeing many temp workers being misclassified as self-employed, and then there's the barrier that many unstable workers face, that they don't have enough hours to access employment insurance benefits and it's very difficult to get your record of employment from an agency that says, "We're not actually letting you go, but we may not have work for you for six weeks." So violations are rampant across the board.

I want to tell you about the experience of a member of ours. Her name is Sybil. Sybil worked for a government organization through a temp agency. She worked eight hours a day doing data inputting at an office. Her contract told her that she was self-employed and therefore not entitled to overtime pay, vacation pay or public holidays. Like most temp workers, Sybil just wanted to be hired permanently by the government organization she was working for as a temp. She wanted to receive the same wages and benefits as her permanent counterparts. When she asked the client company to hire her on permanently, they said, "We can't because we'd be fined by the temp agency if we did." Sybil offered to pay that fine because she really wanted the job. Instead, her assignment ended and she was left with \$2,000 in unpaid wages.

Sybil didn't file a claim at the Ministry of Labour, and if she did, because they only look at cases on an individual basis, it is very likely that that temp agency is still not paying workers their public holiday pay, their overtime or their vacation pay.

Having looked at Bill 161's licensing scheme to see if would address the issues faced by temp workers, we believe it would not, and there are two primary reasons for this. The first reason is that the licensing scheme relies on employment standards enforcement, and that enforcement is not working for most workers but particularly for temp workers, who are most vulnerable. Most temp workers never come forward to file a complaint, and there are many reasons for this. Workers have no confidence in a system that's not protecting them in the first place. Many work through many different agencies and they find the same violations across the board—never getting paid public holiday pay, being set up as self-employed—and wonder why the system doesn't protect them in the first place.

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Most temp workers never report violations for fear of not getting another assignment with that agency, so you can imagine that if you speak up or ask for your pay, the agency is just not going to call you back. Many temp workers we work with face language barriers and so have difficulty in the first place even accessing the Ministry of Labour and navigating that system.

There's also the problem with our lack of knowledge and understanding of how the law works. In Sybil's case, she knew that something was wrong—there were a lot of entitlements that she wasn't getting—but when she first called the ministry, she mentioned that her contract said she was self-employed. So she was told by the intake officer that if she indeed was self-employed, she would not be able to file a claim. Sybil, like most of us,

wouldn't know how to discuss these issues, wouldn't understand that she indeed was not self-employed, so she chose not to pursue a claim.

For the small numbers of temp workers who do file claims, 80% settle for less than they should have been paid in the first place. Those violations are not tracked, which wouldn't stop the renewal of a licence because it wouldn't be on the record. So if employers are being rubber-stamped through with licences, it's only to give them more confidence to break the law.

We also need proactive inspections. There are only 20 officers to inspect over 350,000 workplaces, with close to six million workers who rely on the Employment Standards Act in Ontario. With that current lack of resources, there's no way that inspections can protect temp workers.

The second thing is that Bill 161 assumes that the Employment Standards Act protects temp workers, and it does not. It actually releases employers from their basic responsibility to workers. Sybil worked in an office as a temp worker for one year. The supervisor at the office gave her a schedule, evaluated her work and supervised her performance, but we have a system that says that this client company, which controls 99% of Sybil's work, faces no liability under the law.

The Chair: One minute.

Ms. Dick: One minute; oh, no.

So there's no responsibility to temp workers whom the client company doesn't see as their employees, because the law says this is so.

Temp workers face unique problems in the overall workforce. There's a huge disparity in how employment standards officers understand temp work, as we saw. What we need is a comprehensive reform of the Employment Standards Act. Temp workers need a separate section in the act to deal with the unique work arrangement that they have. We need better enforcement. We need new and expansive definitions of "employer" and "employee" that capture that unique relationship that temp workers have. And client companies and agencies have to be jointly responsible for employees and their statutory obligations.

Alone, Bill 161 won't protect workers, because it relies on an enforcement regime that doesn't protect temp workers and it relies on the Employment Standards Act, which has proven to be ineffective in the protection of temp workers.

The Chair: Thank you very much. As part of this arrangement with Elisabeth, is she going to follow you now?

Ms. Dick: I guess that would be more appropriate. But I was actually on at 10:40.

The Chair: UNITE HERE is here. At 10:40 we'll hear from you, Elisabeth. Okay?

Interjection.

The Chair: Thank you so much.

UNITE HERE CANADA

The Chair: We'll call on UNITE HERE Canada, please. Welcome.

Ms. Alex Dagg: Good morning. Thanks for this opportunity to speak today. My name is Alex Dagg. I'm the director of the Ontario Council of UNITE HERE and co-director for UNITE HERE Canada. Our union represents thousands of garment workers, hotel workers, food service, manufacturing and distribution workers across Ontario. We have 50,000 members in Canada and about 20,000 members in Ontario.

Representing workers in traditionally low-wage service and manufacturing sectors, UNITE HERE is very aware of the growing role of temporary employment agencies in shaping the opportunities and experiences of the country's most marginalized workers. Dedicated to organizing these low-wage workers, we have noticed a disturbing growth in the number of temp worker horror stories that we hear from workers looking to improve their working lives.

As the union of record for the garment industry, we are struck by the similarities of the conditions faced by some temp workers today to the sweatshops that we first started organizing over a century ago in this province.

Contingent labour is a rapidly growing sector of the Canadian workforce and the temp agency industry is a big business. Today, one out of five new hires is a temporary worker, compared to one in 10 in just 1989. In 2003, there were 1.6 million temporary workers in Canada, up 28% from six years before. In 2004, the temp industry in Canada had revenues of \$4.4 billion, up from \$1.5 billion in the year 2000, and 60% of that revenue came from Ontario. Agency workers make an average of 40% lower wages than permanent workers, an average of \$12.06 compared to \$19.98. Fully 95% of temp agency workers were non-union in 2003.

As a union, we believe more work needs to be done by governments at all levels to address the explosion of temporary work in our economy. From an examination of employment standards to a revamping of employment insurance, many of our current labour laws and employment programs were written for a world of full-time, permanent work that is no longer available to a growing number of workers.

Our current labour legislation is also woefully inadequate in addressing the rights of these workers to union representation, which would be the most effective method of addressing these problems. Indeed, many corporations employ the use of temporary workers to provide a year-round labour supply as part of an explicit union-avoidance strategy.

The use of temporary workers overall is, however, not the issue we are here to address today, and we recognize that many temp agencies are abiding by Ontario's laws and providing jobs for people who need them.

But with the elimination of licensing of temp agencies in 2001, we have seen a marked increase in complaints of temporary agency workers who experience less than legal working conditions. The agencies that employ these workers, who we refer to as low-road operators, are most often small, start-up operations, but the businesses they contract workers to are some of North America's best-

known corporate names. These temp agencies sometimes employ practices that are either patently illegal or take advantage of loopholes to skirt labour laws.

We have heard of practices that include:

- agencies offering cash payment under the table to avoid payroll taxes;

- workers not receiving required health and safety training;

- workers being denied legally required breaks, not receiving their legally entitled overtime pay or being forced to work unacceptably long hours;

- workers never receiving payment for hours worked or their vacation pay.

Due to the pressure on the entire temporary worker industry by these low-road operators, we have witnessed industry practices that are not necessarily illegal, but take advantage of vulnerable workers. These include:

- agencies negotiating work assignments and salary, then deducting their own unrestricted fee before deducting income tax and statutory benefits;

- some agencies taking the first week's wages as a placement fee;

- client companies being required to pay a buyout fee if it wants to hire a temporary worker to be permanent, thus causing many workers to remain temporary;

- workers feeling they are not allowed to turn down a job, even if it is unsafe or they are unprepared, and workers being transported to jobs, having no idea where the work site is located or who they are really working for;

- some agencies asking workers to sign elect-to-work contracts that exempt them from public holiday or termination pay, and workers feeling obligated to sign such contracts out of fear they will not work otherwise.

As a union trying to address these modern-day sweatshop conditions, we have been struck by the lack of avenues open to these workers. While employment standards should protect these workers, many of these low-road agencies are extremely precarious operations. They start up and fold within months, which means employment standards complaints, which can take years, are rarely a useful venue to receive owed wages.

These agencies are forcing a race to the bottom for the many legitimate temporary agencies who find themselves competing against them for contracts. It is important that this legislation before you is passed so legitimate agencies—paying taxes, abiding by employment standards and providing Workplace Safety and Insurance Board coverage—are able to compete on a level playing field. Without it, the explosion of these low-road agencies will continue, as will the corresponding growth in sweatshop-like conditions.

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We feel this legislation will provide some public oversight and accountability where there is very little today. The bill's provisions obliging temporary agencies to apply for a licence yearly, prove necessary assets to establish a legitimate temporary agency and face the revocation of their licence if they violate Ontario's laws

would go a long way to improving the situation of the fly-by-night agencies that are here today and gone tomorrow.

Further work is needed to ensure there are the required resources, though, to investigate complaints and applicants for licences. As well, some mechanism must be developed that will hold the many large, wealthy corporations that use these low-road agencies accountable for the working conditions that exist in their operations, even if they themselves are not the direct employer.

Bill 161 is a good first step to build an enforcement regime that will regulate this industry and give Ontario's most vulnerable workers an avenue to lodge complaints against unscrupulous operators.

Thank you for the time to comment today.

The Chair: Thank you very much. We have about three minutes, so with the permission of the committee, I'm going to give the first round to Mr. Dhillon. You have three minutes, Mr. Dhillon.

Mr. Dhillon: Thank you, Ms. Dagg, for your presentation. You mentioned that some of Canada's biggest corporate names are the client companies. I'm a firm believer that not enough is being done to target them in terms of creating an awareness about what's happening with the temp workers. Or are they just ignoring this? What type of measures do you think can be placed on these corporate names so that they can become better corporate citizens?

Ms. Dagg: That's a good question. I think it's really the guts of the issue. I think licensing will help deal with some of the really low-road operators here that we're seeing. But the corporations that use them often use them because they don't want to take the obligation of hiring employees. They take this measure of using temporary agencies so they're not required to take any responsibility. But they are using them directly in their workplaces. They direct them day to day with what their working conditions are; they are providing whatever working conditions may exist.

I think there should be a much stronger connection attached to these employers so that if there are serious violations there could be ways to look at joint accountability with those employers. They are benefiting from using these temporary agency workers and I don't think it's okay to just say, "Oh, they're not our employees, so we're not responsible."

We've heard some very scary stories about health and safety violations in particular. There are a lot of temporary workers being used in factories today where you see dangerous working conditions. The training is not done for these temporary workers, so they're put in conditions where they don't know what kind of procedures they should be taking. The corporations should be held jointly liable if there are any issues there with Ontario's laws.

Mr. Dhillon: Any specific measures, penalties or the like?

Ms. Dagg: When we talk about joint accountability, that's really tying those employers in. If a temp agency is

violating labour law, if you could tie the employer whose workplace it is jointly liable for any violations, you could help deal with enforcement right then and there. The major corporation isn't going to want to have violations going on. They're not going to want to be tied to that, so make them recognize that they have a direct relationship here and that they should be accountable for the temporary workers on their premises as well as the agency employer.

The Chair: Thank you very much.

We'll move to the Staffing Edge.

Interjection.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair: We'll then hear from the Elisabeth Bruckmann in this slot. Welcome.

Ms. Elisabeth Bruckmann: I've also got a handout.

The Chair: You don't want to spend your precious time handing things out, nor do we want to see you spend your precious time. We want to hear from you.

Ms. Bruckmann: I'm Elisabeth Bruckmann. I am a staff lawyer at the Parkdale community legal clinic. I specialize in workers' rights and human rights. We represent an enormous number of workers every year who come forward, who have worked through temp agencies and who have had their rights, under the Employment Standards Act in particular, violated.

We've already heard from Karen Dick from the Workers' Action Centre and from Ms. Dagg from UNITE. I think they both did a very excellent job in outlining the kinds of abuses that these workers experience in the workplace. They spoke, to a certain extent, to the fact that these workers are being abused in part because they are already marginalized people. They are people of colour, they're women, they're new immigrants. They're desperate for work and the temp agency offers them jobs, which they can't find anywhere else. They're also experiencing abuse because our current legislation does not conceive of the kind of relationship that's created in a temp agency. The notion that you are in a workplace, but the person giving you instructions and telling you what to do, where to go, when to start and when to stop is not your employer. Your employer is an entirely different person, who you don't interact with on a day-to-day basis.

The current legislation and the current scheme that we have do not adequately address this. What has been put forward in Bill 161 is, in our view, a tremendous first step. In the first place, it recognizes the problem. I have to say that I'm surprised it's taken so long, because this industry is exploding. As was described by the earlier presenters, hiring temp agencies is extremely attractive to employers. It allows them to avoid obligations and responsibilities as employers, and the temp agencies stand to make an enormous amount of money. The industry is exploding. This bill is a crucial first step in recog-

nizing the problem and we're very thankful for that. However, it's just a first step, and a small first step.

What I've outlined is a document that I prepared which is a clause-by-clause review. I don't have time to go through it, but one thing that comes up consistently in this document is that in order for this licensing scheme to work, it has to be part of comprehensive reform. We have to look at our other labour legislation and make sure that it takes into account the realities of a temp worker's way of working, way of interacting with employers and the way that responsibilities are different in a temp work situation. We have also got to look at the other legislation and work out if we are actually enforcing it or not.

Having said that, I do have a few points about the licensing scheme. First of all, I think it's crucial that the definition of "employment agency" be expanded. As the earlier presenters noted, there is a proliferation of different forms of employers coming out of the woodwork, not only temp agencies and staff agencies, but people who allege that they are setting up franchises. They're offering new immigrants an opportunity to have their own business and, for thousands of dollars, they can have their own cleaning contracts. However, when you look at those workers, everything they're doing looks like employment. The definition of employment agency has to be expanded to ensure that all of these schemes are captured.

There also needs to be a clearer sense of what qualifications are going to be necessary for a licence. At the moment, a lot of this has been relegated to the regulations. We need to know what somebody has to show in order to get a licence. If we're concerned about their past history, where are we going to find that history? Is the Ministry of Labour in a position to tell us whether this person has been violating the act or not? There is a lack of specificity in the qualifications. There is also a notion of financial responsibility, which is also unclear. Considering some of the, frankly, shady operators out there, we need to be clear as to what body will be obtaining this licence. Is it a corporation? Is it an individual? We need to capture the various corporate forms that are created to allow people to slide in under the radar.

1030

Very briefly, to move on, there also needs to be a clear indication of what will bring about a suspension or a revocation of a licence. It's not clear. It should be clear and it should be mandatory. Violations of the ESA or other labour laws should result in a revocation.

There are, then, extensive provisions for employers to appeal. Apparently, they can go directly to Superior Court, which is extraordinary in light of the existence of the OLRB as a specialized tribunal. However, workers are not listed as parties. That's got to change. Workers have to be able to stand up for themselves and play a role in making sure that they have a fair workplace.

Finally, I would make a final note with respect to the title of the act. The title of the act at the moment is Protecting Vulnerable Workers Act. It's a laudable goal, but this act does not protect vulnerable workers. This act

is a valuable first step towards recognizing the problem of vulnerable workers in the exploding temp agency industry, and it's an important piece of a larger body of reform. We are very thankful that this act has been brought forward. We would like to see the next steps. We would like to see the ESA reformed to address temp workers and precarious workers, and we would like to see more resources directed to the Ministry of Labour, with a mandate to go out and enforce those laws so that all Ontarians, regardless of their origin, their gender, their racial background, have an equal entitlement to a fair and just workplace which operates within the confines of the law.

The Chair: Thank you. There's about a minute and a half left.

Mr. Norm Miller (Parry Sound-Muskoka): Thank you for your presentation this morning. I wanted to quickly address two things. First of all, will this bill shut down the fly-by-night operations that were talked about by you and your partner? Secondly, the self-employed situation—I had a situation that I just learned about at tax time. My daughter, in her summer job this year, was working for a very reputable marketing company. Only as we were filing our tax in the last month did I discover that they didn't take any deductions. They basically treated her as a self-employed individual, and they also barely paid, or didn't pay, her minimum wage. This wasn't a temp agency. This was a downtown Toronto marketing company on King Street. So in her case, and it's probably the case with the immigrant workers and people who are at their first job, it just isn't worth the bother to use the existing laws. I mean, she's at school and there's a process and cost involved in trying to right the situation. There's no way she should be treated as a self-employed individual.

I guess the first question is, will it shut down the fly-by-night operations? Then, also this other self-employed situation, if you just want to—

The Chair: The question is longer than the answer; you've only got about 40 seconds.

Ms. Bruckmann: Okay. Well, I'll address the second one first. The question of calling a person self-employed when they are unquestionably an employee is a new and ever-growing way of trying to avoid the obligations under the ESA. It happens out there in all sorts of settings. I've seen waitresses told they are self-employed. However, there is a particular form of it which bears close resemblance to temp agency and placement agency work. That's why this definition of employment agencies needs to be expanded. That is the way to catch that type of problem. I think what your daughter experienced isn't necessarily the same. What the people we're working with are experiencing is an actual scheme to try and pull them in, offering them work in various different places, but they've got to pay for that work because it's their own business.

The second question: Is this going to stop the fly-by-night operations? It could. The act needs work. The definitions need to be clearer, the qualifications for

licences need to be clearer and, above all, there's got to be enough resources for the Ministry of Labour to go out and enforce it.

The Chair: Thank you very much.

THE STAFFING EDGE

The Chair: Is the Staffing Edge here, please? How this works, sir, is you introduce yourself and you have 10 minutes.

Mr. Victor Winney: My name is Victor Winney. I'm the chief financial officer for The Staffing Edge. A little backgrounder on who The Staffing Edge is: We were established in 1995 to support and help entrepreneurs, staffing agencies, grow in the Canadian market. We provide the financing, we provide the technology, we provide the risk management and we are the employer of record for all temporary associates out to work. We currently represent 58 staffing companies in the province of Ontario today.

Our members are some of the most predominant people in the community. We have members who have hit Canada's top 100 women entrepreneurs list, Canada's hottest upcoming Canadian companies and Canada's fastest-growing companies.

We ran approximately 39,000 T4s in the province of Ontario last year and we represent 3,000 work sites. We currently have a 10% market share of the temporary staffing market.

Some of the challenges that we see with this bill: It doesn't give a clear definition as to what type of business will or will not qualify for a licence or, for that matter, what type of business is regulated.

Bill 161 is targeting staffing firms rather than targeting all employers, as vulnerable workers exist in every industry. Bill 161 will only create additional burdens for staffing firms that already adhere to the Ministry of Labour and workers' comp legislation and regulations. Thus the agencies that do not obey these rules today will not be the ones to go out to obtain licences tomorrow.

The regulation of fees charged to clients and pricing are directly in conflict with the free market. This regulation would have to extend to accounting firms, law firms and other service providers that have differences in their bill and pay rates, as these companies are staffing agencies in disguise.

Part of what we see as a recommendation for this: utilizing the increased number of auditors and inspectors to focus on employers who are circumventing the regulations and legislation currently in place; creating a hot-tip reporting system and following up processes to ensure employers currently operating inappropriately are investigated; being that current legislation has teeth, if directed, the officers can target all parties involved—in other words, staffing firms and their clients that are not compliant.

We strongly recommend staffing firms be involved in the creation of punitive penalties for both staffing firms and end-user companies that knowingly use their ser-

vices. We believe publicly posting these offences will quickly regulate particularly large corporations—companies that currently have no penalties or consequences for using such firms and actually gain more profit as a direct result of using these non-compliant staffing companies. Thank you.

1040

The Chair: We have about four minutes.

Ms. Cheri DiNovo (Parkdale-High Park): Thank you for coming before this committee and deputing. I have a question. In 2001, there was a licensing arrangement with temporary agencies, so you must have experienced that period as well in your business. I'm just wondering if you could comment on the period when there was licensing versus the period when there is not.

Mr. Winney: The licensing at the time was more toward permanent placement, not temporary. Temporary is a different breed than permanent placement. The licensing was not one that targeted anything; it did not restrict anybody from operating. All it was was a piece of paper on your wall. No one actually went and audited or did anything to stop the people from doing it.

The problem with licensing in our industry—the people who are breaking the rules and breaking the laws will not go out and get a license. These people are operating under the table. They're paying cash. They're doing everything against the legislation currently on the books. So will they go out and get a licence? Highly unlikely. It's always the ones who operate legitimate businesses who will get that licence.

Ms. DiNovo: I have to say, I used to be an owner-operator of an agency, so I'm very familiar with the industry. I was in it for many years and I know whereof I speak. This bill really is just asking for a piece of paper on the wall as well, it seems to me, and doesn't have any enforcement built into the law, so that's why I'm asking you. There has been a similar deputation here about lack of enforcement. This doesn't seem to be that much different. So I'm wondering if you could comment on the differences in this recommendation, because in my day we did have to get a licence—temporary or permanent—and this bill seems to simply reinstate that pre-2001 situation.

Mr. Winney: If you want to really target vulnerable workers in this industry, you have to target the people who are benefiting from it. The people who are benefiting from it are the end users. When they can pay a bill rate of \$10, and minimum wage is at \$8, and you have government burden costs that make it impossible to pay that \$10, those people are taking advantage of the workers just as much as a temp agency. Unless you stop end users or fine end users for taking that advantage, this problem is going to exist forever and a day.

Ms. DiNovo: So how would you recommend getting at these large corporations that are the end users benefiting from this structure?

Mr. Winney: It's back to the plain and simple. If they receive punitive damages, if they get fined for what they do, that's going to change things. If they start getting

fined, it's like workers' comp. If they have an accident, they will pay attention to the safety of their employees. If they get caught for having \$10 wage earners on the floor, then they're going to change their attitudes. And publicizing that is key.

The Chair: Thank you very much.

GARDIEN HEALTH CARE STAFFING

The Chair: We'll call on the Gardien Health Care Staffing group, please. Welcome.

Ms. Rose Anne Holness: My name is Rose Anne Holness and I'm the CEO of Gardien Health Care Staffing. I've been supplying nurses to health care facilities in the GTA for the past 28 years.

The intentions of Bill 161 are admirable. However, it does not achieve its objectives and I believe is singular in its focus.

Points that I believe are essential in preparing a bill are the following:

Legislation that is created must be fair and equitable. It must protect and respect all the stakeholders: the worker, the employment and temporary staffing agencies and the client.

Agencies do not create a need for their services but they respond to a need created by the workplace.

While there are many poor agencies, there are many good agencies and they provide valuable services to their workers, their clients and their communities.

All persons seeking employment are vulnerable, from the highly skilled IT professional to the seasonal worker.

All legislation must be harmonized with all federal laws defining and pertaining to the employment of workers.

In the allotted time, I would like to address the proposed legislation by the following: vulnerable workers; employment agencies and temporary help agencies; and clause 16(g).

The proposed legislation is entitled the Protecting Vulnerable Workers Act (Employment Agencies), but nowhere in the bill is a vulnerable worker defined. By defining it as the vulnerable workers act, it is placed in the social arena; by defining it as an employment agencies act, it becomes an employment issue. By having an employment agencies act, I believe more protection can be provided to all stakeholders, including the vulnerable worker.

Section 6 of the proposed legislation states that the supervisor can refuse to issue a licence "where the applicant is a corporation." Incorporation provides certain benefits, such as limited liability and the ability to raise funds. A corporation is a person in the eyes of the law. A legal person is an entity recognized by the legal system as having rights, duties and responsibilities under that system. By making this a limiting factor to licensing, the rights of agencies are infringed upon and their ability to protect their investments is limited and therefore prohibits them from extending protection to the worker and their clients. There is a moral obligation on lawmakers to protect all citizens.

Furthermore, the legislation is confused as to whether or not a corporation can be an employment agency. I am in favour of licensing employment agencies. Through licensing, I believe all stakeholders can be protected.

I propose that before licensing, all prospective applicants seek rulings from Revenue Canada as to their status. Revenue Canada is the agency that determines if they are employment agencies, temporary help agencies or self-employed contractors. The ruling would have to be presented with their application. Therefore, the licence would also require them to: be incorporated; have a GST and payroll remittance number; have a WSIB certificate; have an EHT account number; obtain liability insurance; and be bonded. I believe this would be a win-win situation for all. It would protect the workers, their rights and benefits. It would protect the client and the agency. If they were all deemed to be employers, they would be unable to charge a fee for the services to the employee. I also believe that not-for-profit employment agencies must adhere to the same standards as for-profit employment agencies.

Temporary help agencies: The proposed legislation refers to temporary help agencies in section 1 but fails to define a temporary help agency. In defining a temporary help agency, it is important to understand the role of the Canada Revenue Agency in determining who is an employer and who is an employee. I have included in your packages the Canada Revenue Agency guidelines for this determination. Once it is determined that temporary help agencies are employers, the Employment Standards Act protects the worker.

The Employment Standards Act, however, should be strengthened to protect the worker by reinstating sections which were removed, I believe, in 2000-01. Temporary workers must be protected from being paid less than client staff performing the same or similar work in the same workplace. Clients often adopt the lowest price policy, resulting in remuneration being forced downward.

In my particular industry, our clients believe that they have the ability to set our margins, and many of them believe about one dollar an hour is what we deserve for overhead and profit. However, statutory payments for vacation pay, CPP, EI, WSIB and EHT amount to 20% of the hourly wage, so agencies are forced to find—

The Chair: There are about two minutes left.

Ms. Holness: Okay—are forced to find ways to offset these employment costs by having their staff become self-employed contractors.

Over and over again I have been approached by staff wanting to be self-employed. Recently, one staff member insisted that he be self-employed so that he could have a line of credit. What he really wanted to do was to be self-employed so he could go to the bank, open up a business account and get a line of credit so he could purchase a home. So we find that people come to us requesting to be self-employed.

1050

Once again, strengthen the Employment Standards Act by expanding section 10 to include businesses where

there is a bargaining group and make it illegal to outsource to a business paying below the established rate.

Agencies are part of the marketplace. The marketplace should operate without restriction from the government, and agencies should be able to set their own prices reflecting the needs of their clients, wages, overhead and profit.

There are many concerns that could be addressed, time permitting. This is a very important and complex issue. The input of the employment agencies and temporary staffing providers and their associations is essential for the success of this bill.

I want to see a bill that is fair and equitable and protects and respects all stakeholders: the employment and temporary staffing agencies, the client and the worker. I would like to see this be a win-win situation for all. Thank you.

The Chair: Thank you very much. All the time has been expended.

ASSOCIATION OF CANADIAN SEARCH, EMPLOYMENT AND STAFFING SERVICES

The Chair: We'll move to ACSESS, the Association of Canadian Search, Employment and Staffing Services, please. Welcome.

Ms. Amanda Curtis: Good morning. My name is Amanda Curtis. I am the executive director of, as you said, the Association of Canadian Search, Employment and Staffing Services, which is far more easily known as ACSESS.

Our organization was formed in 1998, but it goes back to the early 1960s when it represented two different sub-sectors of our industry. Much of this is actually being drawn attention to by this bill today. ACSESS currently represents in excess of 80% of industry services provided by legitimate companies across Canada.

As a single voice for all sectors of the employment and staffing industry, ACSESS has a long and very positive working relationship with the Ontario Ministry of Labour. Our key objectives include a responsibility to assume a leadership role in industry licensing and regulation and to promote best business practices and adherence to all applicable employment legislation and regulations.

Like the speakers before us, we don't condone poor treatment of workers, and we take these responsibilities very seriously. The ACSESS code of ethics and standards was also written to represent the interests of several audiences: not just the member company but their candidates, the individuals seeking full-time employment; their employees, the temporary workers; and their clients. Our members pledge to uphold this code of ethics on an annual basis. They receive a certificate to post on the wall, so there is something that people can look for.

We also have a strong safety group that we run in co-operation with the WSIB.

I would like to stress at the beginning that ACSESS does support meaningful and effective regulation and the

sponsoring member's goal to protect the vulnerable workforce. We agree that this bill has drawn attention to many of the concerns that have been raised.

Our discussion paper, however, explains why we believe the proposed act would not achieve this goal. The bill does lay out a framework for potential licensing of permanent placement agencies—and this was referred to briefly before—but it does nothing to address any gaps or potential improvements that could be put into the Employment Standards Act.

If we look at the history of licensing, the Employment Agencies Act that was in place in the past addressed only the full-time, permanent placement agencies that provide a service as a middle party between the employer and the candidate. It did not apply to the temporary staffing firms. Those are the ones which, as we said earlier, have their own employees. They fulfill the role of employer and they send them out to their clients' place of business. In fact, in 1998 and 1999, ACSESS met several times with the Ministry of Labour to address ways in which the then Employment Agencies Act system could be improved. It was a piece of paper that was put on people's walls, there was no compliance requested, and it was really meaningless. This, of course, ceased when the act was repealed by government in 2001.

As I've mentioned, the temporary staffing firms are the employer of record. They are subject to and must abide by all applicable employment and human rights legislation. They are covered under existing statutes and regulations, and they will continue to be covered under any improved legislation. The whole gamut of legislation that our member firms have to comply with ranges from human rights acts to health and safety, privacy legislation, employment standards, the Ontario Labour Relations Act and all the payroll-related responsibilities that come under the Canada pension plan, employers' health tax, employment insurance and the Canada Revenue Agency.

It's very important that we all understand the difference between the permanent-placement agencies and the temporary staffing firms, because if we don't, we run the risk, as an industry association, to appear divided. Many of our employment agencies support the concept of meaningful licensing on the part of our temporary staffing members; however, we must support enforcement of current legislation and finding solutions or improvements if gaps exist.

I would like to speak briefly to the shortcomings of Bill 161 as we see them. Number one: Essentially it is a duplication of the previous Employment Agencies Act and it fails to address the issues or to offer any protection to vulnerable workers.

The licensing criteria are vague. The bill does not offer any guidance or definitions which accurately describe the types of businesses it intends to regulate. It also does not describe what types of businesses will not qualify for a license.

It's extremely important to note that when we talk about protection of vulnerable workers and adherence

and enforcement of existing statutes, this applies to all employers—any company that is offering part-time or seasonal work arrangements—not just the staffing services industry. Reference was made earlier to an individual working for a marketing firm.

We believe there's also ambiguity on the subject of agency qualifications in the bill as it's put forward. We have addressed it in our discussion paper, but no attempt has been made to determine what might constitute reasonable grounds to withhold a licence or how violations would be addressed and penalties issued.

Bill 161 speaks about the regulation of fees charged to clients and pricing. We have addressed price control. We believe this would be counter-productive in all ways and would not serve the interests of business or any of the parties involved.

In general, the bill lacks clarity and, because of this, it also lacks teeth. It doesn't do what it was originally intended to do. Companies that are in contravention of employment standards will continue to operate the way they are today, and they will simply slip under the radar screen.

At the conclusion of our paper, we list eight recommendations. I refer to the written submission that was tabled and I urge those of you in the room to closely review the details of the points put forward.

Today, in the interest of time, I would like to read the last two recommendations. The first one addresses awareness, outreach and education. We recommend that a review be made of existing communication and educational materials and that this be available to all employers and all employees. ACSESS would support and assist the Ministry of Labour in educating industry employers and employees. Government and industry need to work together to ensure that all workers in Ontario understand their rights and feel that they can come forward.

The second refers to consultation. We would like to participate and have ACSESS engaged as a willing and capable partner in an effort to create a better understanding of the issues that have been raised. We would like to develop solutions—these may include licensing—communicate with stakeholders, develop and implement training tools and, finally, promote public policy and industry objectives.

We've heard concerns on many employment issues and we've heard them reiterated here today. People constantly talk about charging fees to candidates. I can't stress enough that we have always been opposed to this, as an industry and as an association. It is covered in point 8 of our code of ethics. And we don't condone any charging of fees to individuals seeking employment. We believe this should fall under the Employment Standards Act, it should apply to all employers and it should be enforced.

I heard Mr. Dhillon's horror stories earlier and I believe these also need to be addressed.

In conclusion, for the temporary staffing side of our industry, ACSESS supports rigorous enforcement of

current legislation, as well as continuation of employment standards branch safety initiatives that were ramped up a little earlier this year, including more auditors and inspectors who would focus on employers and bring attention to and fine those who are in breach of legislation.

ACSESS supports finding solutions if there are gaps in the Employment Standards Act and if reforms are needed. ACSESS would like to see improved communication, as I said earlier, with all employers and all employees.

For the permanent placement side of our industry, we certainly are in favour of self-regulation and we don't rule out, by any means, the question of licensing, providing that it's carefully created and meaningful and more than just a piece of paper.

We urge the sponsoring member to suspend the efforts on this bill as it stands right now, and we would welcome the opportunity to be part of consultation with our industry and other interested parties and stakeholders.

I thank you for the opportunity to present today.

1100

The Chair: Thank you. Mr. Dhillon, if you can use one minute, then you're welcome to it.

Mr. Dhillon: I have no questions. I just want to thank Ms. Curtis for taking the time for that very insightful presentation. Thank you very much.

Ms. Curtis: Thank you.

The Chair: Thank you.

MOHAMMAD JAMAATI

The Chair: We'll go to Mohammad Jamaati. Welcome. Could you introduce yourself to us, and then you have 10 minutes.

Mr. Mohammad Jamaati: I want to go straight to Bill 161 instead of talking generally. Everybody knows that there are bad guys and good guys out there, but what I want to talk about is the bill itself.

I believe the title of this act should be "employment agencies licensing act." Why? Because in section 1 there is the definition of "licence," "prescribed" and "regulations," but "vulnerable workers" is missing, and from sections 1 to 14, which is about 80% of the act, there is no mention of vulnerable workers. There is one mention in section 11 of "the interests of persons dealing with the agency." Yes, vulnerable workers are part of that, but it could be employers, it could be the landlord of the agency, even postmen.

So the second reason is the whole bill is dealing with licensing: issuing, renewal, refusal, suspension, revocation, court appeal and so on. The second reason is the Lieutenant Governor in section 16 "may make regulations." Those regulations that I like are (a), (e) and (i). You're lawyers, and you know the law has two parts: one is the word of the law and the other is the spirit of the law.

This act, as its name implies in section 18, is protecting vulnerable workers. This is the spirit of the law,

which is totally missing in the whole act. Maybe they argue that, yes, there are some bad agencies out there, like unleashed predators, and we should put a leash on them because they look at vulnerable workers as prey. So if there is licensing, that would be good, but we know that Canada has a capitalist system. It's not socialism. Maybe Mr. Dhillon argues that we can't have a harsh act against agencies because it's a capitalist system. France has a capitalist system too, but they have good labour laws. Those labour laws, they argue, caused the economy in France to slow down. I know what's going on behind the scenes, but if we say something, we should do that and not say something and do something else.

Another point I want to make is about supervisors. Why should we have an act that gives so much power to the supervisor? In section 11, it is mentioned that supervisors can refuse renewal of or revoke the licence because of "the interests of persons dealing with the agency or to the public interest." I don't like "public interest," the term itself, because this is a very general thing. There is the possibility for misuse or abuse of this general term.

In 1998, when I came to Canada as a landed immigrant, I had a master's degree in electrical engineering. I want to give you an example. Now I have to get a P.Eng., professional engineering. They told me, "You have to go through a long process, several years, to get your rubber stamp." I know that there is no need to go through such a thing. They want to put a brick wall in front of people who want to get licensed. We need to change this mentality. A licence is not a brick wall, not a barrier; a licence should be a small wall, but there should be monitoring and scrutiny when you are working.

What I'd like is if we put more sections in the bill that deal with inspections, not just issuing licences and these sorts of things.

Again, in clause 6(a), it mentions "in accordance with law and with honesty and integrity." There are two generalizations. Law: Which law is mentioned? Honesty and integrity: The supervisor can misuse these general terms, and it's very easy for them to do it. After all, the supervisor in this bill is not accountable at all. Yes, they say that agencies can go to court and make a complaint, but who guarantees that—you know the judge looks at the law and sees that the supervisor can do anything they want, so the judge cannot do anything. That's it.

The Chair: That's it? Thank you, sir. Okay, we have about a minute and a half.

Mr. Ted Arnott (Waterloo-Wellington): Thank you very much, Mr. Jamaati. On behalf of the official opposition, I want to thank you for making your presentation today. I think your views are ones we ought to consider, and we really do appreciate your taking the time to collect your thoughts and bring them in here.

Would you say that, in your opinion, this bill should pass into law as it is currently structured?

Mr. Jamaati: The problem is, why should this bill be so short? It has just 18 sections. You could put in a dozen more sections related to—I'm talking about clauses

16(a), (e) and (i). There should be more explanation and more sections about—why did you leave it to the Lieutenant Governor? Forgive me, but everybody knows that the Lieutenant Governor is just a rubber stamp. The supervisor will make proposals, and the Lieutenant Governor will just sign it. You should take clauses 16(a), (e) and (i) and put them in—this act can have 40, 45 or 50 sections. Why not? Why should it be so short? It's just dealing with the licensing.

The Chair: Thank you very much. We appreciate it.

Mr. Jamaati: And my final words? Can I say my final words?

The Chair: You have 30 seconds. Go ahead.

Mr. Jamaati: On CNN, there is a program called Wolf Blitzer, the Situation Room. That's soft talking. But on the BBC, there is a program called HARDtalk with Stephen Sackur. I like the second one with Stephen Sackur. Forgive me, but my final word is: This bill is a joke, and I'm totally disappointed.

The Chair: Thanks.

1110

JOSEPH BENJAMIN

The Chair: Joseph Benjamin, please. Welcome, Mr. Benjamin. You have 10 minutes to make your presentation. If there is any time left, we'll go to Ms. DiNovo.

Mr. Joseph Benjamin: Hello. My name is Joseph Benjamin, and I am an organizer with UNITE HERE.

As a union organizer, I spend my time talking to workers about their problems and helping them improve their working conditions. Over the past several years, I have seen a rise in the number of workers talking about problems with irresponsible temp agencies that keep them in constant limbo and don't treat them fairly.

Our union decided it was important to understand these practices first-hand in order to advocate for these workers. I went undercover to apply at several agencies, and my experience confirmed that some agencies fail to respect workers' rights and their own legal obligations.

When I applied to Unique Staffing, they placed me in a printing company called PLM. I worked there on November 12, 2006. Some of the products they print at this company are the boxes for the Telus telephone company, the boxes for Molson beer company and some coupon booklets.

There's an application that you fill out before you are placed anywhere. It's your name and address. I was called in to work the next day. They took us to the printing press and walked us into the lunchroom. The supervisor or manager then took us onto the floor and told us what to do.

Then he left. It was up to the other agency workers who had been working with this agency for a while to work with us and show us how to do the work. We then worked a 10-hour shift. The agency moves people around to different work sites throughout the week. After working for two days, I was called to work somewhere else.

I felt that Unique Staffing seemed to be a very shady agency. I was never asked to provide my social insurance number, references, proof of name or any other identification. The workers have the option of being paid in cash or by cheque. The wages for working with this agency are \$7.50 per hour if you choose cash—which was below the legally required minimum wage of the time—or \$8.25 per hour if paid by cheque.

There's no sign-in sheet at the agency or at the printing company. It seemed as if there was no record of us working for the agency. Your name is written on a piece of paper before you leave the agency, and you are transported to the work site in the agency's van without knowing the location you are going to. The list of names is then handed to the manager at the work site, who then calls out our names and takes us out to work. After work, the van would come back, pick us up and take us back.

At another agency, they paid people on a two-week cycle and asked us to sign a document agreeing to be paid for overtime only after 60 hours. When I asked questions about the forms they were asking me to sign, I was told I could consult an outside adviser if I wanted before signing, but they wouldn't allow me to take the form away with me to get the advice. The form included agreeing to submit to a credit check. To this day, I can't understand how my personal credit rating would be relevant to working with any temp agency.

The way I understood it, it seemed like they grouped several things together on that form—health and safety, overtime and a couple of other policies. Parts of the forms were questionable, to say the least, but in order to work there you have to sign off. People I worked with felt that if they didn't sign the form, they simply wouldn't have a job. For precarious workers like the many I met, they have little choice in the matter and are afraid to speak up or ask questions.

After experiencing first-hand what agency workers face every day—not knowing who their employer really is, where they will work, whether they have any protection or if they are being paid for all their work—I believe that a bill like this one is very important to bring irresponsible employment agencies into the light. The government should not abandon workers when they work outside the permanent labour force. I believe Bill 161 is a good step in the right direction to protect workers in the new precarious economy. Thank you.

The Vice-Chair (Mr. Mario G. Racco): Thank you, Mr. Benjamin. We have about two minutes left. Ms. DiNovo, two minutes.

Ms. DiNovo: Mr. Benjamin, thank you for your testimony. Thank you for the work of UNITE HERE. You do phenomenal work organizing, and thank you for your personal bravery with what you encountered.

The questions that you've heard raised around the table and with the other deputants were not that we are not interested in helping vulnerable workers, but is this bill the best way to do it, and the possibilities of enforcing this bill. Clearly, the agency you signed up with broke about every Employment Standards Act

legislation piece that I can imagine and should probably have been reported to the police, among other things. Just wondering if you did actually follow through and report what you found with that agency to the employment standards authorities and what response you received.

Mr. Benjamin: At the time when I went to do this, workers were telling us that they were facing these problems, so we went to see if it was true what they were saying, if it was really bad like they were saying. After discovering for myself, we don't have the power to deal with these temp agencies, so we think the government should intervene and bring these temp agencies—we bring them to the light and we think the government should do what is necessary to have these temp agencies obey the law and treat these workers with the rights they require and deserve.

Ms. DiNovo: Absolutely; I totally agree. I think we do agree on that around this table. Particularly this kind of agency is what we're trying to address. Forcing them to get a licence: First of all, they probably wouldn't comply anyway, and even if they did, it would be a piece of paper on the wall. So the question is, how do you enforce the Employment Standards Act, even as it stands? It seems to me that it's not being enforced anywhere, so that is the question. That was my question, really: In this particular instance, did your union go ahead and try to complain about this agency, and what happened there? That would be an interesting story because I think that's where the hub of the problem is.

The Vice-Chair: Thank you, Ms. DiNovo. Thank you very much, Mr. Benjamin.

AHMED ILMI

The Vice-Chair: The next deputation is from Ahmed Ilmi. Sir, you have 10 minutes total. You can use the full amount to make your presentation, or if you leave some time, there will be questions asked, or comments. You can start.

Mr. Ahmed Ilmi: Hello. My name is Ahmed Ilmi. I'm testifying in support of Bill 161 because I think it will help protect workers who are not informed about their rights at work and it will ensure that temporary work doesn't mean dangerous work.

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I have been employed through a temp agency while I was a student for the past several years. They gave me numerous temporary jobs—many of them at plastics plants—that I accepted to support myself during my studies. When I needed work, I would call into the temporary agency office. They would give me an assignment, the start and finish dates, rate of pay, the location and a supervisor's name to report to once I got to the job site.

Once at the warehouse, I would be told to go to work at a plastics manufacturing station. Another worker would come over, show me how to operate the station once, or maybe twice if I was lucky. After that I would be left alone to operate the machines. The training was simply about operating the machines, not about my safety as a worker. Some of these machines are quite complex.

No one came around to check up on me unless something was going terribly wrong. In those cases, the indicator light on the station would go off. Then someone would come over, stop the machine, fix the problem, and then leave. I would not receive further training as to what I did wrong or warnings about what to do if something went wrong.

There were no regularly scheduled breaks or designated lunch break times in which I was alleviated of my duties to take my lunch breaks or rest breaks. I would often ask other workers when I could take my breaks, because supervisors would never be around so that I could ask them about my breaks. No supervisor explained that I had the right to a break, when to get it or explained what it was. In fact, there were no designated times when workers from temporary agencies would be relieved to take their breaks. The manufacturing stations would never stop, so workers were expected to work non-stop. I was always tired at the end of the day.

I was also never informed about health and safety protections or WSIB coverage or given training to protect me while working at these machines. Indeed, I was never given instructions on how to operate the equipment that I was expected to handle at work, which left me vulnerable to injury. These are complicated machines that move quickly and need to be handled carefully. I was also never given any safety equipment such as gloves, safety boots or earplugs. I was never told how to handle chemicals or materials that I was exposed to at these plants. I was not given WHMIS materials or information, and moreover, I was never properly trained in what to do in case I was ever injured.

Adequate government regulations are needed to force agencies to provide workers with a workers' bill of rights that should include health and safety rules and regulations, because many of these workers who access these agencies do not know their rights. While I knew something about my rights and would take the risk of speaking up—asking for my breaks and such—many older workers had families to support and were too scared to speak out. They felt there was no one who could help them and felt that they could not speak up for fear of not having the jobs they needed to support their families.

I strongly believe that requiring temporary employment agencies to be licensed would protect workers' rights, because oversight would discourage the bad conditions workers often face. As it stands, these workers have no rights. As it stands, these workers do not have any protection and often work in unsafe environments without the necessary protective equipment. Thank you.

The Vice-Chair: Thank you for your presentation. Are there any comments?

Mr. Dhillon: Thank you, Ahmed, for your presentation. Did you make any complaints to the Ministry of Labour about these conditions?

Mr. Ilmi: I was actually a student and this was just a part-time thing. I would just be sent to different places and never really bothered with them.

Mr. Dhillon: With respect to other workers, were they recent immigrants?

Mr. Ilmi: Yes, there were many recent immigrants who basically never spoke English and that sort of thing. And even if they spoke English, they would not know what the labour regulations are.

Mr. Dhillon: Would you think if the ministry had some awareness programs in other languages and a tip line in different languages, that would make it easier for workers to complain?

Mr. Ilmi: Maybe, but it's essential to regulate these agencies so they don't get away with doing whatever they want.

Mr. Dhillon: Thank you very much.

The Vice-Chair: Thank you very much for your presentation.

OLIVIA ROCK

The Chair: The next presentation is from Olivia Rock. Would you please have a seat?

Ms. Olivia Rock: Good morning. I am honoured to represent—

The Vice-Chair: Madam, you must have a seat so we can all hear you. You may start. You have 10 minutes total.

Ms. Rock: I come here to represent being a woman and being a human. There are lots of experiences that I see that are harassing and abusing. I understand that this bill is good to pass this bill, because my own people come here and they can have their own job.

I want to know, because where I live now, 10 Willowridge, 32 years I am—we have a meeting on Friday. I organized a meeting for the tenants' organization.

This opportunity that I have here to meet you is my honour. You understand that I am here to support the bill. I'm glad. I'm very happy that I'm here with you, sir, and everybody, as a woman.

I'm here because I want to have an opportunity to have rights for landlords and tenants. They are harassing tenants too. They don't hire the right person, and they don't respect people. That's why I arranged the meeting on Friday at 7 o'clock. So I hope you understand why I'm here.

I support all we have, but I don't want to hurt people, as a human. That's why I'm here. I've already been lots of places. I was in England for nearly five years. I represent my own people, 680 Filipinos with low income. I've been protecting them.

I've very happy that you invited me here, being a woman and a human. And everybody understand, if it is hard for you, don't do it—follow the rules and regulations in law. If you don't follow them, I'm proving that you are no good, but you must be good. If it is bad, don't do it. That's why I am here, to remind you that people must understand that if it is bad, don't do it.

When I came here in 1975, Toronto was very clean, number one. Okay?

The Vice-Chair: Thank you, Madam. Is that all you want to say?

Ms. Rock: Yes.

The Vice-Chair: Mr. Arnott, you have an opportunity to ask some questions.

Mr. Arnott: I just want to thank you very much for coming in to this committee today to offer your opinion on this important piece of legislation. Your input has been very valuable to all of us.

Ms. Rock: And very important too because we have a meeting on Friday. So I hope you pray for us, that we're going to have our rights—for the harassment and abuse. But I support this bill 100%.

The Vice-Chair: Thank you again. Thank you to all. This is the last presentation. The meeting will be adjourned. Before we do that, though, a reminder that this committee is meeting again from 4 to 6, but in committee room 1, not here. We are dealing with Bill 164, and it's going to be clause-by-clause.

Thank you again. See you at 4.

The committee recessed from 1129 to 1602 and resumed in committee room 1.

COMMUNITY RIGHT TO KNOW ACT (DISCLOSURE OF TOXINS AND POLLUTANTS), 2007

LOI DE 2007 SUR LE DROIT DU PUBLIC D'ÊTRE INFORMÉ (DIVULGATION DES TOXINES ET DES POLLUANTS)

Consideration of Bill 164, An Act to amend the Consumer Protection Act, 2002, the Environmental Protection Act and the Occupational Health and Safety Act / Projet de loi 164, Loi modifiant la Loi de 2002 sur la protection du consommateur, la Loi sur la protection de l'environnement et la Loi sur la santé et la sécurité au travail

The Chair: I call the committee to order. We're on Bill 164, An Act to amend the Consumer Protection Act, 2002, the Environmental Protection Act and the Occupational Health and Safety Act, MPP Tabuns.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? This question is asked at the start of each section.

Ms. Laurie Scott (Haliburton–Victoria–Brock): I move that subsection 13.1(1) of the Consumer Protection Act, 2002, as set out in section 1 of the bill, be struck out and the following substituted:

“Exposure to toxic substances

“(1) No prescribed supplier shall supply to a consumer goods or services that expose the consumer to a toxic substance described in subsection (2) unless the supplier first makes detailed plans on how it could reduce its use of the toxic substance and submits the plans to the minister.”

We think that issues such as the one proposed by this provision, for example, in the labelling of products, is best handled at the federal level—we heard that from a number of groups that appeared before the committee—so we're not having this patchwork all over the country and Ontario is doing one thing, for example, and Mani-

toba or other provinces are doing another thing. The plan we outlined last week is one we want to work on with the federal government to reduce the amount of toxins that Ontarians are exposed to, and one which would be asking companies to list the toxins they use and then submit plans which detail how they can reduce or eliminate the use of these toxins. I think it's best to work with the industry on how to make that list of toxins available to the public. So that's the rationale for the change.

The Chair: Any other comments?

Mr. Peter Tabuns (Toronto–Danforth): I would urge members of the committee to reject this amendment. I note that we have had representation in support of this bill, and particularly with regard to this section, from the Canadian Environmental Law Association, the Toronto Environmental Alliance, the Toronto Cancer Prevention Coalition, the Canadian Cancer Society, the Ontario College of Family Physicians, Environmental Defence, United Steelworkers, Dr. David McKeown, Toronto's chief medical officer of health, and the Registered Nurses Association of Ontario.

I note that this bill is directly in line with the priorities set out by 13 prominent environmental groups as to the things they want to see Ontario do around environmental issues, and that there is tremendous appetite for this kind of law and this kind of initiative on the part of the public.

I have been reviewing amendments with different supporters of the bill, and they make the argument that waiting for the federal government to act on this is not credible. Ontario needs to be a leader. California and the United States have been leaders, and in fact the California initiative has driven policy across the United States. Governor Arnold Schwarzenegger, who I would say would generally be seen as a pro-business governor, is an extremely strong defender of Proposition 65, the initiative that a big part of this act is modelled on. This Proposition 65, and hopefully this act, will lead to reformulation of products that will benefit a number of jurisdictions. The Registered Nurses Association of Ontario believes that the bill as written, with minor amendments that I have proposed, should stand and should go forward.

The Chair: Any further discussion? We'll call the question. All those in favour of the amendment?

Mr. Tabuns: A recorded vote.

Ayes

Scott.

Nays

Dhillon, Leal, Mossop, Tabuns, Racco.

The Chair: It is defeated. Are there any other comments?

So we go back to Ms. Scott again.

Ms. Scott: I move that subsection 13.1(2) of the Consumer Protection Act, 2002, as set out in section 1 of the bill, be struck out and the following substituted:

"Toxic substances

"(2) For the purposes of subsection (1), toxic substances are the substances listed in schedule 1 to the Canadian Environmental Protection Act, 1999 (Canada)."

Again, we think that we need to take the approach in Ontario that's best for everyone if we coordinate the efforts at the federal level. The federal government has a list of toxic substances. We should utilize that list in Ontario. There is no harm in coordinating. Certainly, the government is talking as to the content of the list, and we know that late last year the federal government finished the massive categorization process on legacy chemicals, and the federal government also evaluates approximately 800 new chemicals every year.

So business in Ontario, especially the manufacturing sector, feels that different levels of government should be working together but with one list, and that should be from the federal level. So that's the basis for the amendment.

The Chair: Further discussion?

Mr. Tabuns: I would argue that the bill should be left as written in this section. The World Health Organization has put together this list. It's internationally recognized. Using the CEPA list gets us into consideration of toxic chemicals that have a variety of impacts, not necessarily cancer-causing. For consistency in this bill, and particularly with this section, if we're concerned with protection against cancer, using the language that was originally put forward is important, again consistent with the priorities set forward by 13 of the top environmental groups in this province.

The Chair: Further discussion? We'll have the vote.

Mr. Tabuns: Recorded vote.

Ayes

Scott.

Nays

Dhillon, Leal, Mossop, Tabuns, Qaadri, Racco.

The Chair: The amendment was defeated.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

On section 3 there appear to be four substantive amendments. The first is numbered 3.

Mr. Tabuns: I move that subsection 4.1(1) of the Environmental Protection Act, as set out in section 3 of the bill, be amended by adding the following paragraph:

"12. Any other data and reports that the Environmental Commissioner of Ontario requires."

1610

This is a suggestion on the part of the Registered Nurses Association of Ontario. It recognizes the excellent work done by the Environmental Commissioner and ensures that in the act, his recommendations around the information that should be available to the public are taken into consideration in providing that information.

The Chair: Any discussion?

Mr. Jeff Leal (Peterborough): At this time, we feel that this motion is open-ended. It has some budgetary implications. At the Ministry of the Environment, we would like to look at this amendment and this issue further down the road, so at this time, we feel we can't support it.

The Chair: Further discussion? All those in favour? Opposed, if any? Defeated.

Clause 4.1(2)(a): That is a PC motion.

Ms. Scott: I move that clause 4.1(2)(a) of the Environmental Protection Act, as set out in section 3 of the bill, be struck out.

For this motion and the subsequent motion, the rationale is the same. We don't have any problem with the ministry compiling this central database of all the information which is easily searchable, based on a variety of criteria. Our concern is the unintended impact on business of posting all this information on the Web.

There's no question that we strongly believe in reducing the presence of toxins in our environment, and we strongly believe that we need help from business to succeed in this province. But we also believe the two ideas are not mutually exclusive. We think there needs to be further discussion with the private sector before we make this change. That is why we would like these specific items removed from the bill in the hopes that we can work together with something in the future.

The Chair: Further discussion?

Mr. Tabuns: I'm curious as to Mr. Leal's comments, but I'll speak first.

The Chair: That's okay with me.

Mr. Tabuns: Thank you, Chair.

Mr. Leal: We're flexible.

Mr. Tabuns: He is, and it's a wonderful thing on a Thursday afternoon.

I think that the right of communities to know what risks they're taking with regard to emissions in their communities is a right that should be recognized as ahead of a variety of other rights. This is, frankly, a fairly modest suggestion. This information would be available on the basis of a freedom-of-information request, which is expensive and time-consuming. The information is there. With its posting, communities have the power in their hands to understand what's going on in their area, and frankly, it gives them the opportunity, when they have to engage with companies around potential issues, to say, "We know what's going on here."

Having represented for a while a community that has dealt with a variety of toxic chemical issues—Canada Metal, a fairly infamous lead reprocessor, is located in my riding. We dealt with incinerators, we dealt with Aquatech Blue, which was an oil and toxic waste reprocessor. I know that in our community, this is a big issue. Recently, the Toronto Star has done articles on this. There is tremendous interest on the part of the environmental community in knowing what is actually going on within these companies and certainly an interest on the part of the public.

I would say to the opposition and to the government that what's being asked for here is quite modest. It will make a substantial difference to citizens and, for your political interests, is not something that should be opposed. This is information that, for the most part, you already have. Instead of putting the public through a wringer to get it, you're making it available to them. I would say that it's in your interest and the interests of the public that you move forward with it.

The Chair: Mr. Leal?

Mr. Leal: We believe that this clause should remain in this bill. We will be voting no to this amendment. We feel very strongly that there is an inherent right to know within the public and the province of Ontario, certainly through the EBR and websites where this information should be listed, easy access for the general public to get this information. On that basis, we will be not supporting this PC motion.

The Chair: Further discussion? All those in favour? Opposed, if any? Okay, it's defeated. Members, we have a vote in five minutes and 51 seconds. I'm going to suggest that we recess the committee to reconvene within five minutes after the announcement of the result of the vote in the House. Is that agreeable? Done.

The committee recessed from 1616 to 1627.

The Chair: Where were we? I think we did the second amendment, which was defeated. So we're into number 5, which is an NPD amendment.

Mr. Tabuns: I move that subsection 4.1(3) of the Environmental Protection Act, as set out in section 3 of the bill, be amended by adding the following clause:

"(c.1) the facility;"

This simply makes it possible for someone to search not only by name of a pollutant, a person or an address but also by the name of a facility, which I think would simply be seen as a housekeeping amendment and something suggested by the Registered Nurses' Association of Ontario.

The Chair: Any discussion?

Mr. Leal: We've been most co-operative so far. To provide a comment on this, I remember that when I was elected a councillor for the city of Peterborough early in 1985 or 1986, I think, we were talking about drafting bylaws and defining things, and "facility" was one of these words that the city solicitor at the time used to say we had to define in very clear and concise terms. I'm not sure that has been done in this case. We intend to study this issue further, but at this particular time we're not prepared to support this amendment.

The Chair: Any other discussion? We'll call the question, then. Recorded vote.

Ayes

Scott, Tabuns.

Nays

Dhillon, Leal, Mossop, Qaadri, Racco.

The Chair: The amendment is defeated.

That brings us to proposed amendment number 6.

Ms. Scott: I move that subsection 4.1(5) of the Environmental Protection Act, as set out in section 3 of the bill, be struck out.

It's similar to the rationale I gave earlier: While we don't mind the ministry compiling the central database of all this information, we strongly believe that we need to sit down with the private sector on how best to make the toxic substances known to the public.

The Chair: Discussion?

Mr. Tabuns: This amendment would essentially nullify public access to this information. Given that the government has already voted with the rest of the section, it would be consistent with its position on openness and community right to know to oppose this amendment on the part of the official opposition. I would hope that it continues taking the position it has taken for consistency's sake and also because I think it's the position that is most defensible to the public, to the environmental movement and to the public health movement in this province.

Mr. Leal: We will not be supporting this amendment. Mr. Tabuns has quite eloquently described the situation. We've listened very carefully to his thoughtful words on this particular amendment, and we will be voting no.

The Chair: Any further discussion? Okay, we'll have the vote on the amendment. All those in favour? Opposed? It is defeated.

Shall section 3 carry? Carried.

There are no amendments to section 4. Shall section 4 carry?

Mr. Tabuns: Actually, Mr. Chair—

The Chair: Some discussion? Sorry. Go ahead.

Mr. Tabuns: Even before discussion—I may be wrong.

The Clerk of the Committee (Ms. Tonia Grannum): Section 4.1 goes after section 4.

Mr. Tabuns: But 4.1 would amend 4, would it not?

The Clerk of the Committee: Motion number 7 would follow section 4, because you're adding a new section and it would come right after 4, so we deal with 4 first.

Mr. Tabuns: I see. It's not an amendment to 4; it's simply a new piece of material.

The Clerk of the Committee: Right.

Mr. Tabuns: Thank you.

The Chair: There is a notice. Ms. Scott, do you want to speak to the notice?

Ms. Scott: We're recommending voting against section 4. The reason for notice rather than motion is that if the committee wishes to remove an entire section from the bill, the rules of parliamentary procedure require that the committee vote against the section, rather than pass a motion to delete it.

We bring this recommendation based entirely on feedback from the firefighting community, which presented to us at public hearings last week. They said:

"The intent of this provision is to require employers to submit material safety data sheets to their local fire departments. In theory, this information would enable firefighters to know what hazardous materials are on site when called to an incident.

"While we support the intent of this proposal, we have the following concerns about implementation: the cost of setting up, administering and maintaining a data storage system for the data sheets; the lack of staff at small fire departments to maintain the information; the lack of technological support and equipment to get the information out to the field in an efficient manner.

"Currently, few trucks in the province carry on-board computers and firefighters generally do not carry electronic devices that could contain this information.

"In light of these realities, we believe it would be better to devote existing resources to hiring more fire inspectors and prevention officers to visit employers in the community."

That's the end of the quote from the Ontario Professional Fire Fighters Association, and that's why we've brought this notice before you today.

The Chair: Any more discussion?

Mr. Tabuns: I was very appreciative of the comments made by the firefighters when they were here. I thought about this section, and I thought about it again today when we were talking about the amendments that came after Andrea Horwath's Bob Shaw bill. "Presumptive consent" can't be the term, but the assumption that if someone in a fire department dies from cancer it's workplace-related ties back in to this. I think that part of our task is not only to deal with firefighters when they are injured by a long process of exposure to toxic chemicals, but we also have a responsibility to protect them from those toxic chemicals.

As everyone well knows, I, as the author of a private member's bill, can't include an allocation of funds in the bill. What I can do is put forward measures that I think are important and press for adoption in the expectation that fulfillment of this section would require the government to make a decision that they're going to put the funds in to actually carry it out. The government may vote against it, but I think, given the position they've taken on firefighters today, that it would be inconsistent for them to back off from action to reduce exposure of firefighters to toxic chemicals, so I would ask them to support this section.

The Chair: Mr. Leal.

Mr. Leal: We intend to support this section.

The Chair: You intend to support section 4? All right, we will call the question on section 4.

Shall section 4 carry? Those opposed? It's carried.

That gets us to section 4.1. There is an NDP amendment, page 7.

Mr. Tabuns: I move that the bill be amended by adding the following section:

"4.1 The Act is amended by adding the following sections:

"Hazardous materials inventory

"39.1(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials and all hazardous physical agents that are present in the workplace.

"Same

"(2) The inventory required by subsection (1),

"(a) shall contain such information as may be prescribed; and

"(b) shall be prepared in consultation with the committee or health and safety representatives, if any, for the workplace or with a worker selected by the workers to represent them, if there is no committee or health and safety representative.

"Same

"(3) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the first day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year.

"Identification of ingredients

"(4) Where, under the regulations, an employer is required to identify or obtain the identity of the ingredients of a hazardous material, the employer is not in contravention of the regulations if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients.

"Same

"(5) An employer shall advise a director in writing if, after making reasonable efforts, the employer is unable to identify or obtain the identity of the ingredients of the hazardous material as required by the regulations.

"Exception

"(6) Except as may be prescribed, subsection (1) does not apply to an employer who undertakes to perform work or supply services on a project in respect of materials to be used on the project.

"Floor plans

"(7) The employer shall keep readily accessible at the workplace a floor plan, as prescribed, showing the names of all hazardous materials and their locations and shall post a notice stating where the floor plan is kept in a place or places where it is most likely to come to the attention of workers.

"Hazardous materials substitutes

"39.2(1) No person shall use a hazardous material in a workplace where it is reasonably practicable to substitute a material for it that is not a hazardous material.

"Same

"(2) Where a hazardous material is to be used for any purpose in a workplace and an equivalent material that is less hazardous is available to be used for that purpose, the equivalent material shall be substituted for the hazardous material where reasonably practicable."

This amendment was recommended at the urging of the United Steelworkers. It enhances the protection of people on the job from toxic chemicals. It's consistent with the initiatives of the opposition party in their first amendment to reduce the number of toxic chemicals in the workplace. I would say that for the government it's

an advantageous amendment in that it could again say it is taking action to reduce toxic chemicals in the workplace and the overall exposure of people in society to toxic chemicals, and I would urge that it be adopted.

The Chair: Any further discussion?

Mr. Leal: We will not be supporting this amendment at this time. Our approach is to have Bill 164 stay pretty much intact as the member, Mr. Tabuns, introduced it. We're certainly looking forward to our ministry review in the Ministry of Government Services and MOE, because there are many laudatory parts of this bill and we want to keep it intact and have the opportunity to do a more extensive review of this very serious issue and issues that are contained in this particular piece of legislation.

The Chair: Further comments? Okay, we'll call the question then.

Mr. Tabuns: Recorded.

Ayes

Scott, Tabuns.

Nays

Dhillon, Leal, Mossop, Qaadri, Racco.

The Chair: The motion is defeated.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the title of the bill carry? Carried

Shall Bill 164 carry? Carried.

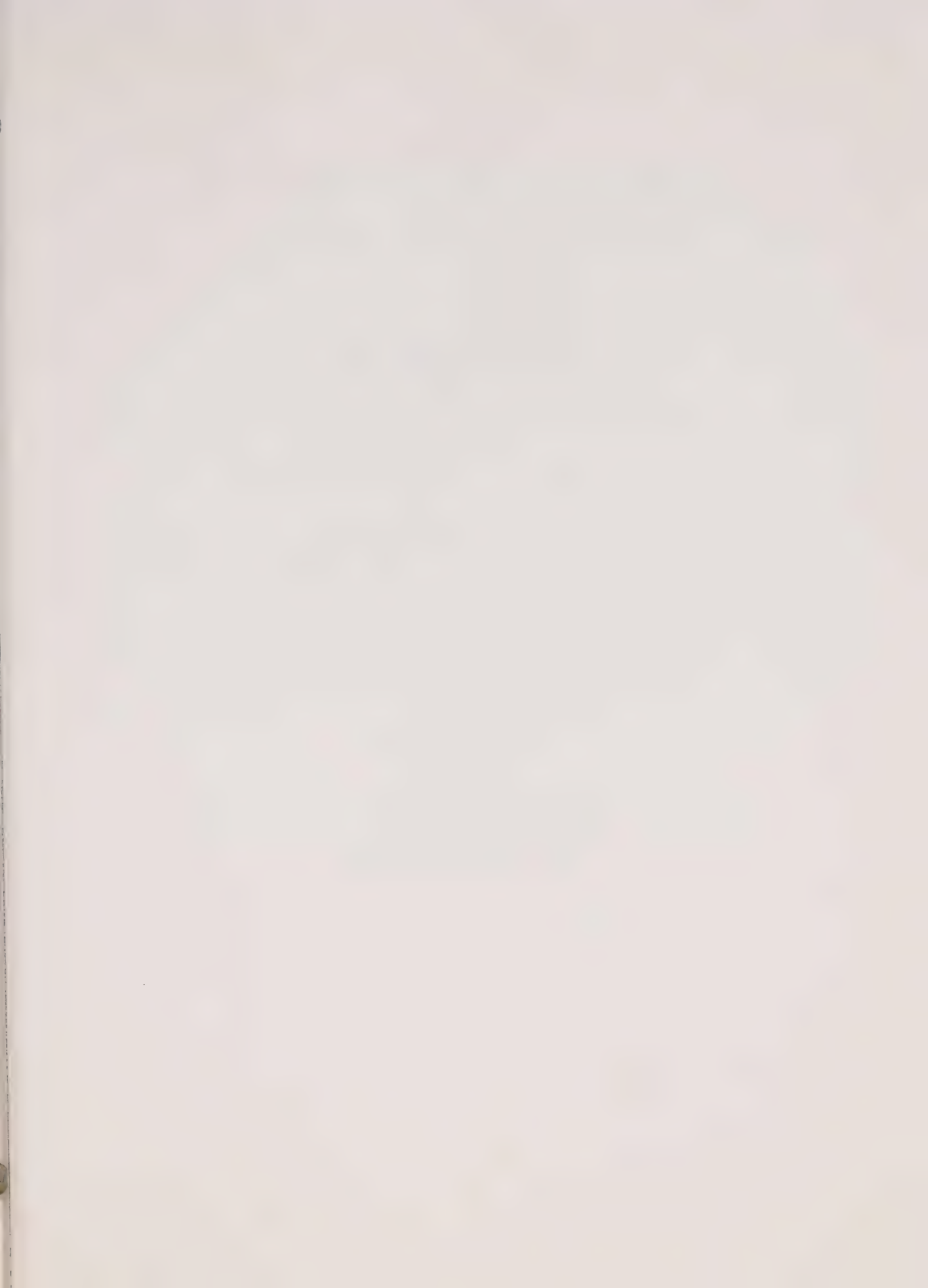
Shall I report the bill to the House? Carried.

Is there any other business of the committee?

We stand adjourned until 4 o'clock next Thursday to do clause-by-clause on Bill 161.

The committee adjourned at 1641.





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Thursday 10 May 2007

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Jeudi 10 mai 2007

Standing committee on the Legislative Assembly

Protecting Vulnerable Workers
Act (Employment Agencies), 2007

Comité permanent de l'Assemblée législative

Loi de 2007 sur la protection
des travailleurs vulnérables
(agences de placement)



Chair: Ted McMeekin
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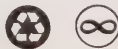
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Thursday 10 May 2007

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Jeudi 10 mai 2007

*The committee met at 1600 in committee room 1.*PROTECTING VULNERABLE WORKERS
ACT (EMPLOYMENT AGENCIES), 2007LOI DE 2007 SUR LA PROTECTION
DES TRAVAILLEURS VULNÉRABLES
(AGENCES DE PLACEMENT)

Consideration of Bill 161, An Act respecting employment agencies / Projet de loi 161, Loi concernant les agences de placement.

The Chair (Mr. Ted McMeekin): Okay, we can get started. I call the meeting to order. Thank you all.

We're here today with respect to Bill 161, An Act respecting employment agencies, a private member's bill presented in the name of Mr. Dhillon. Mr. Dhillon, I'm going to invite you to make opening comments before we proceed to clause-by-clause.

Mr. Vic Dhillon (Brampton West–Mississauga): Thank you, Chair. I'd just like to say a few things at the beginning of the clause-by-clause consideration of my bill. We've had a chance to listen to various stakeholders on this issue. We listened to their submissions and have made the following recommendations that we will be discussing today.

I'd just like to say that what we're dealing with here today, with respect to temp employment agencies, is not the bigger recruitment firms, like Kelly, Adecco etc., in the complaints that we've heard from our constituents in regard to the operation of these temp agencies. The other thing we've considered is that the Ontario Labour Relations Board is the best mechanism for dealing with complaints under this act, instead of the courts, because it takes a long time for courts to settle the complaints that are heard. The licensing scheme would be on a three-year term, instead of the "every March 31," for reasons which will be explained. The Ministry of Labour's employment standards officers would be the ones responsible for the investigation and inspection; they would have the powers. There will also be some amendments to address the reprisals issue.

That's basically the gist of the amendments in a nutshell. I look forward to further discussions.

Mr. Shafiq Qaadri (Etobicoke North): Mr. Chairman, if I might, with your indulgence and the indulgence of the committee, just recognize the visiting delegation from the country of Pakistan and various national assem-

blies. We're honoured and privileged to have all of you here. We wish you all success with your visit conducted by USAID, in your deliberations in Toronto and Ottawa and beyond. Welcome.

The Chair: Yes, welcome. Thank you. It's good to have you here. We have much to learn from each other, so thank you for that.

Ms. Cheri DiNovo (Parkdale–High Park): Just one thing, Mr. Chair. I was looking through the motions and I have used, for the NDP motions, the word "supervisor." I look at the government motions, and I understand that the word that's been used is "director," so I'm wondering if, right off the bat, I could just change "supervisor" to "director." I don't have a problem with using the same terminology so that we're speaking the same language.

The Chair: Yes, that's fine. Great.

Ms. DiNovo: That's thanks, by the way, to Tonia Grannum.

The Chair: Our guiding light, without a doubt. My guiding light, anyways. Thank you.

All right, so we'll move into it. Are there any comments, questions or amendments to any section of the bill, and, if so, which section? I understand we get into it pretty quickly here.

Section 1, the first amendment: Mr. Dhillon.

Mr. Dhillon: I move that section 1 of the bill be struck out and the following substituted:

"Definitions

"1. In this act,

"'board' means the Ontario Labour Relations Board; ('équivalent français')

"'client' means a person,

"(a) who pays the operator of a temporary help agency, or a person related to the operator, for the labour of an employee,

"(i) of the operator,

"(ii) of a person related to the operator, or

"(b) on whose behalf payment is made to the operator of a temporary help agency, or to a person related to the operator, for the labour of an employee described in subclause (a)(i) or (ii); ('équivalent français')

"'director' means the director of employment standards appointed under the Employment Standards Act, 2000; ('équivalent français')

"'employment standards officer' means an employment standards officer appointed under the Employment Standards Act, 2000; ('équivalent français')

“‘licence’ means a licence under this act; (‘équivalent français’)

“‘prescribed’ means prescribed by the regulations; (‘équivalent français’)

“‘regulations’ means the regulations made under this act; (‘équivalent français’)

“‘temporary help agency’ means a business of entering into contracts under which,

“(a) employees of the operator of the business or of a person related to the operator perform labour for a client, and

“(b) the client, or another person acting on the client’s behalf, pays the operator or related person for the labour of those employees. (‘équivalent français’)”

That’s basically definitions of different terms laid out, Chair.

The Chair: Any discussion or comment?

Ms. DiNovo: Sorry. I listened to that but I didn’t see where that was. What are we looking at?

The Chair: It’s the first yellow page.

Ms. DiNovo: Right, okay. I was looking at the white copy.

The Chair: Comments? All those in favour? Opposed, if any?

Ms. DiNovo: A question, Chair, before I’d like to vote. The amendment that we’re proposing regarding section 1 of the bill has, in fact, to do with the definition of what an employment agency actually is. Our concern, and I see it’s not our concern alone—I haven’t had a chance to read thoroughly the submission by Kelly, but I gather other people have a problem with the definition as well. So I just want to be sure that we’re going through it carefully.

So “‘temporary help agency’ means a business of entering into contracts under which,

“(a) employees of the operator of the business”—okay. Because there was raised by Parkdale legal, when they came, this practice, and it was the first time I heard of it, where businesses are treating their, we would say, employees or potential employees of the agency as independent contractors and franchising them out as supposed businesses, if you will, rather than employees. I just want to make sure we don’t allow that kind of activity to get through a loophole in the definition of the Employment Agencies Act, which is why I suggested the business of granting franchises, the business of providing training with incidental placement—because another way of getting around this bill, perhaps, that we heard from Parkdale legal was that people would pay for training, and then at the end of the training they would be placed, and again it wouldn’t be considered an agency even though it was, in fact, engaging in agency-like activities. So the hope was that we could somehow catch that in the definition. I’m not sure that this does, quite frankly, so I’m wondering if maybe Mr. Dhillon could address it.

“Employees of the operator of the business or of a person related to the operator”—for example, the franchisee angle would simply say, “Well, this is not my employee. They’re independent contractors, and all I’m

doing is putting one business together with another business.” My question is, how do we get at that and stop that from happening?

1610

Mr. Dhillon: That’s not the intent. This implies that we’re talking about an entity, called a temporary help agency or temp agency, that hires employees for their client and gets compensated. There’s no reference here to what you’re referring to in terms of contracting out.

Ms. DiNovo: But you do see what I’m saying: Such businesses would not call themselves temporary help agencies, although they’re in fact doing the work of temporary help agencies under this definition. Presumably the point of this bill is to assist those in precarious employment who are working through these agencies. What’s to prevent them from simply redefining themselves and so not falling under the jurisdiction of this bill and not having to get a licence and hence continuing? That’s my question. Parkdale legal had made the suggestion, which I brought forward, of the actual definition itself and tightening that up somewhat, which is why we moved NDP motion 1.1 about the very definition itself. Actually, having looked at the Kelly submission, they also have their own issues with this definition. I might not agree with them, but clearly there are problems with the definition itself unless we define it very stringently.

The Chair: Any more comment? I’ll call the question on the amendment. All those in favour? Opposed? Carried.

Shall section 1, as amended, carry? Carried.

That brings us to new section 1.1. The motion, I’m told, is now out of order, because we just passed the first motion. That doesn’t come as a surprise, right?

Ms. DiNovo: Mr. Chair, I just want to register my concern because, again, I believe this piece of jurisprudence is going to come into a lot of problems with the definition as stated, and really won’t help the people it’s aimed at helping.

The Chair: I respect that. Let’s register the honourable member’s concern about the definition in the minutes.

That gets us to section 2. Are there amendments? There are. This is a government amendment.

Mr. Dhillon: Chair, I believe we’re on 1b, which is an NDP amendment.

The Chair: We just ruled it out of order.

Mr. Dhillon: Okay. I move that section 2 of the bill be struck out and the following substituted:

“Licence required

“2. No person shall operate a temporary help agency unless licensed to do so by the director.”

It’s pretty straightforward, Chair.

The Chair: Any discussion? All those in favour?

Ms. DiNovo: Sorry.

The Chair: Sorry. I asked for discussion and didn’t see any.

Ms. DiNovo: I guess we’ll pick this up with our other motions. It’s striking out quite a bit, in some ways, but we’ll let it go anyway.

The Chair: Again, all those in favour? Opposed, if any? Carried.

Shall section 2, as amended, carry? Carried.

Section 3: Are there any amendments? By gosh, there are.

Mr. Dhillon: I move that section 3 of the bill be struck out and the following substituted:

"Licence, issue

"(3(1) Subject to section 6, an applicant for a licence to operate a temporary help agency is entitled to be issued the licence by the director if the applicant,

"(a) applies in the required form;

"(b) pays the required fee; and

"(c) complies with any prescribed qualifications.

"Renewal

"(2) Subject to section 7, a licensee who applies for a renewal of a licence in accordance with this act and the regulations and pays the required fee is entitled to renewal of the licence by the director.

"Pending approval

"(3) A licensee who has applied for renewal of a licence may continue to operate while awaiting a decision from the director on the application if,

"(a) the application and the required fee have been received by the director at least 30 days prior to the expiry date of the licence; and

"(b) the licensee has not received a notice that the application has been refused."

This amendment will clarify how a temporary agency would apply for a new licence. It would be consistent with the application process that would be familiar to the employer seeking approval of an hours of work agreement under the Employment Standards Act, 2000.

The Chair: Very good. Any discussion?

Ms. DiNovo: You knew I would. I see that "furnishes a prescribed security" is gone. "Complies with any prescribed qualifications" kind of begs the question, "What are the prescribed qualifications?" There's no description or discussion of that. So I ask, what are the prescribed qualifications and where do we find them in the bill?

Mr. Dhillon: These criteria would be consistent with the application process as per the Employment Standards Act, and that would be addressed by the director.

Ms. DiNovo: But my understanding is that in introducing this bill, you're introducing a licensing system that does not exist. Hence, the qualifications would need to be set out for what constitutes the ability to qualify for that licence. That's not covered by the Employment Standards Act as it's written.

If you're leaving it up to the discretion of the director, that's a huge thing to leave to regulations after the fact. Part of our concern about this bill is that it has no teeth, that it is really just a licence you hang on the bill and doesn't mean much, except paying a fee. This was the situation in 2001 and before, when agencies were required to have licences. It didn't make much difference then, and it won't make much difference now, the way it's written. That's why we're concerned about tightening

up some of these definitions to help the people this bill is presumably helping.

Mr. Dhillon: With respect to Ms. DiNovo's concern about the act not having teeth, we will be getting into that in the amendments that will be coming forward; we'll be addressing that.

Ms. DiNovo: Yes, and there is an amendment we have proposed in section 6. But I want at least to asterisk this with some follow-up somewhere. When you're saying "complies with any prescribed qualifications," what are they? Presumably you want to list them somewhere. I'm happy with moving on if we leave that as something that needs to be addressed further on in the bill at some point.

The Chair: We're not going to move on conditionally; we have an amendment here that we have to deal with, one way or another. We're not going to hostage the amendment to some asterisk or whatever else.

Ms. DiNovo: Then I'm certainly going to vote against this amendment. Also, I see that "furnishes a prescribed security" is gone; I didn't even get to that. At least that's asking for something, "prescribed security" again not defined. But it seems like a weakening already of what has been asked for, even in the original bill, which seems weak to begin with. I'll certainly vote against this.

The Chair: Any further comment?

All those in favour of the amendment? Opposed, if any? Can we have a clear indication? I can only see a few hands.

All those in favour? Any opposed? It's carried.

Shall section 3, as amended, carry? Carried.

Section 4: We have a government amendment.

1620

Mr. Dhillon: I move that section 4 of the bill be amended by striking out "on March 31 next" and substituting "three years".

Basically, this is to indicate that a licence would be issued for a three-year period, unless it's revoked earlier, obviously.

The Chair: Any comments or questions? No?

All those in favour? Opposed, if any? Carried.

Shall section 4, as amended, carry? Carried.

Section 5: a government amendment.

Mr. Dhillon: I move that section 5 of the bill be struck out and the following substituted:

"Display of licence

"5. A licensee shall display a copy of the licence in a conspicuous place in all premises in which the business is operated, where it is likely to come to the attention of the any of the licensee's employees who attend the premises."

The Chair: Any discussion? It's pretty straightforward.

All those in favour? Opposed, if any? Carried.

Shall section 5, as amended, carry? Carried.

That gets us to section 6. There are two proposed amendments, the first being an NDP amendment.

Ms. DiNovo: Again, this comes under the general heading of trying to tighten this up and give it some teeth so that someone who displays this licence prominently is

saying something about the nature of their business and the way they carry it on. Obviously, what we're saying here seems to me to be quite straightforward and is an issue of common sense. If somebody has been convicted of offences under the act or under the Employment Standards Act or its predecessor, they wouldn't get a licence, and the Minister of Labour shall establish and maintain a database of convictions under this act, because if you don't have the database of convictions, you don't know if they've had one.

The Chair: Excuse me. Technically, you have to read the amendment before you comment.

Ms. DiNovo: Sorry. I'm new to this.

The Chair: It's not your fault; it's my fault. I should have caught that right up front. I apologize.

Ms. DiNovo: I move that section 6 of the bill be amended by adding the following subsections:

"Same

"(2) Subject to section 8, the supervisor shall refuse to issue a licence"—

The Chair: Excuse me. I think you agreed that you'd change the wording on that.

Ms. DiNovo: Oh yes. Sorry. "Subject to section 8, the director shall refuse to issue a licence to an applicant who otherwise has complied with the requirements of section 3 if the applicant or another person associated with the employment agency has been convicted of offences under this act or under the Employment Standards Act, 2000 or its predecessor.

"Database

"(3) To facilitate the application of subsection (2), the Ministry of Labour shall establish and maintain a database of convictions under this act and under the Employment Standards Act, 2000 and its predecessor.

"Reserve fund

"(4) Subject to section 8, the director may refuse to issue a licence to an applicant who otherwise has complied with the requirements of section 3 if the applicant does not have a satisfactory reserve fund to compensate for unpaid wages and benefits."

My rationale here is that we're tightening this up. We're saying that if somebody has actually been convicted of an offence under the Employment Standards Act, they shouldn't be given a licence, which seems pretty straightforward to me. How do we know that? Because we're asking that a database of such offences be kept so that one can refer to it. Without that, it's very difficult to track who has been convicted and who has not. We know there are people operating out there who have had convictions on their record.

Finally, this reserve fund is critical, because what's happening is that the employment agency is being paid up front, then they pay out to their employees—or we hope so; we don't know—and if they're not paid up front, how are they going to pay their temporary employees until they do get paid? They need a reserve fund that's substantial enough to warrant the number of employees they have on their payroll before they get the licence. It's a way of showing good faith and is certainly

a way of catching those who have been engaged in criminal activity, which seems to me the very bottom line of being able to qualify for a licence.

The Chair: Any comment?

Mr. Dhillon: I have just a brief comment. The offence in this case is not defined. I think to take away a licence based on one or a minor complaint would be unfair to all the other employees who would be employed under a temp agency. The database, it's our opinion, will be unfeasible. With respect to the reserve fund, you would expect that the client companies would pay their employees on a regular basis, so this shouldn't be necessary. We will be voting against this.

The Chair: Further comment?

Ms. DiNovo: Yes, certainly. I hope that the whole idea behind giving this licence is that we are expecting a certain standard of behaviour in business performance from the company we're giving the licence to. Again, I think it's critical that they have this reserve fund. They won't be able to pay their temporary employees, and that's the whole point of the licence: to make sure that they can do that. To assume that they can do that without anything in this bill kind of begs the point, it seems to me.

Again, the Employment Standards Act—there must be some way of tracking offences. If there's not a way of tracking offences, then how do you know they have been committed? We're simply asking for a tracking of offences. I realize that might be beyond the scope of this particular bill, but it does point to a huge and glaring hole in the enforcement of this.

I'm willing to be a little flexible on that database but certainly not flexible on the violations of the Employment Standards Act. Surely the whole point of this bill is to catch those who have violated the Employment Standards Act in the past; and if they have, then why are we going to be issuing them a licence? So that they can do it again? Anyway, that's the rationale. I would hope that the government wants to see that this licence has some effect, and I fear that unless this amendment is passed, it will not. They will simply conduct business as usual but with a licence on their wall.

The Chair: Any further discussion? All those in favour of the amendment?

Interjection.

Ms. DiNovo: No, it was the right thing to do.

The Chair: This is the government—this is the NDP. All those in favour? Opposed, if any? It's defeated.

There's then a government amendment.

Mr. Dhillon: I move that section 6 of the bill be struck out and the following substituted:

"Criteria for issue or renewal of licence

"6(1) The director may issue a licence to an applicant or renew the licence of an applicant if the director is of the view that it would be appropriate to do so.

"Same

"(2) In deciding whether it is appropriate to issue a licence to an applicant or renew the licence of an applicant, the director may take into consideration any factors

he or she considers relevant, and, without restricting the generality of the foregoing, he or she may consider,

“(a) any current or past contraventions of this act or the regulations on the part of the applicant;

“(b) any current or past contraventions of the Employment Standards Act, 2000 or the regulations made under it on the part of the employer;

“(c) the health and safety of employees;

“(d) any prescribed factors.”

This amendment would outline the criteria that the director of employment standards could take into consideration in determining whether to issue a licence or a renewal. The language is consistent with the discretion provided to the director of employment standards in determining whether to approve hours of work agreements under the Employment Standards Act.

The Chair: Any discussion?

Ms. DiNovo: Yes. First of all, I have a very great problem with “the director may”—so the word “may”—“take into consideration.” Again, what is the point of the licence if they may take into consideration? It implies they may not. One gets the implication here that they could contravene the Employment Standards Act, they could compromise the health and safety of employees, they could contravene even the very limited requirements of this act, which is basically to pay for their licence, and still get another licence. That seems to me absurd—patently absurd. So I would want to take at least that word “may” out and say “the director must take into consideration.” At the very least, you want to give it that much strength.

1630

The Chair: Any further comment? None. Okay, I'll call the question. All those in favour? Opposed, if any? That is carried.

Shall section 6, as amended, carry?

Section 7: There are, as I understand it, two proposed amendments, one government and one from the third party. We'll begin with the government amendment on page 7.

Mr. Dhillon: I move that section 7 of the bill be struck out and the following substituted:

“Refusal to renew and revocation

“7. Subject to section 8, the director may refuse to renew or may revoke a licence if, in the director's opinion,

“(a) the licensee or, where the licensee is a corporation, any officer, director or employee thereof, has contravened or has knowingly permitted any person under his or her control or direction or associated with him or her in the operation of the temporary help agency operated under the licence to contravene any provision of this act or the regulations applying to the operation of the temporary help agency; or

“(b) the licence would be refused under section 6 if the licensee were making application for it in the first instance.”

This amendment recognizes the director's ability to refuse to renew or revoke a licence. As raised by the

stakeholders, the qualifying terms “through lack of competence or with intent to evade the requirements of such provision” have been removed.

The Chair: Is there any discussion on this proposed amendment?

Ms. DiNovo: I have a question. Could you just explain why you were not happy with section 7?

Mr. Dhillon: Basically, there was a qualifying term which the stakeholders raised concern about, about the competence and the likelihood to evade the requirements of the provisions. So that has been removed.

Ms. DiNovo: Okay. Again, the same objection, really, as to the last amendment: The director “may”—at the very least, “should,” some language to indicate that this is a necessity for a licence. Clearly the way this is written—you don't have to be a good lawyer to know that this essentially is a licence to not fulfill the requirements of the licence. Certainly I'll be voting against it.

The Chair: Any other comments? All those in favour, please indicate. Those opposed, if any? It is carried, which makes, I'm now informed by the clerk, the subsequent motion out of order.

Shall section 7, as amended, carry? Those in favour? Opposed, if any? Carried.

That brings us to section 8. There are seven, beginning with the NDP motion found on page 7b, with the word “supervisor” changed.

Ms. DiNovo: Shall I read it?

The Chair: If you would, please.

Ms. DiNovo: I move that section 8 of the bill be struck out and the following substituted:

“Notice of proposal to refuse or revoke

“8(1) The director, when proposing to refuse to issue or renew a licence or to suspend or revoke a licence, shall serve notice of the proposal, together with written reasons, on the applicant or licensee, advising of the right to an internal review if requested in writing within 10 days after service of the notice of the proposal.

“Powers of director where no internal review

“(2) Where an applicant or licensee does not request an internal review under subsection (1), the director may carry out the proposal stated in the notice.

“Internal review and notice of outcome

“(3) Where an internal review is requested under subsection (1), the director shall reconsider the proposal and, within 10 days after receiving the request, serve notice of the outcome of the internal review, together with written reasons, on the applicant or licensee, advising of the right to a hearing by the board if application is made to the board within 15 days after service of the notice of the outcome of the internal review, and the applicant or licensee may within such time apply to the board for a hearing.

“Powers of director where no hearing

“(4) Where an applicant or licensee does not apply for a hearing in accordance with subsection (3), the director may carry out the proposal stated in the notice of the outcome of the internal review.

“Powers of board where hearing

“(5) Where an applicant or licensee applies to the board for a hearing in accordance with subsection (3), the board shall appoint a time for and hold the hearing and, on the application of the director at the hearing, may by order direct the director to carry out the proposal or refrain from carrying out the proposal and to take such action as the board considers the director ought to take in accordance with this act and the regulations, and for such purposes the board may substitute its opinion for that of the director.

“Service of notice

“(6) The director may serve notice under subsection (1) or (3) personally or by registered mail addressed to the applicant or licensee at the address last known to the director and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the board that the applicant or licensee did not, acting in good faith, through absence, accident, illness or other cause beyond the control of the applicant or licensee receive the notice or order until a later date.

“Extension of time for hearing

“(7) The board may extend the time for making the application, either before or after expiration of the time fixed therein, if satisfied that there are apparent grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as the board considers proper consequent upon the extension.

“Continuation of licences pending renewal

“(8) Where, within the time prescribed for doing so or, if no time is prescribed, before expiry of the licence, a licensee has applied for renewal of the licence and paid the required fee, the licence shall be deemed to continue,

“(a) until the renewal is granted; or

“(b) where the licensee is served with notice that the director proposes to refuse to grant the renewal, until,

“(i) the time for requesting an internal review expires without a request, or

“(ii) if an internal review is requested,

“(A) the time for applying for a hearing expires without an application, or

“(B) a hearing is applied for and the board has made an order.

“Definition

“(9) In this section and in sections 9 and 10,

“‘Board’ means the Ontario Labour Relations Board.”

The Chair: You got through that well.

Ms. DiNovo: It’s a mouthful.

The Chair: This is a bit like exegesis versus eisegesis.

Ms. DiNovo: Absolutely. I’m a former clergyperson.

Clearly, what we’re trying to do here is to tighten up, again, the grounds so that we’re giving the bill some teeth and trying to make it very clear that we want the Ontario Labour Relations Board to be the board that the licensee appeals to or doesn’t, as the case may be, rather

than taking it to the court system. That’s the purpose here.

1640

The Chair: Any comment?

Mr. Dhillon: No comments.

The Chair: Thank you, Ms. DiNovo, for bearing with us and getting through that.

All those in favour of this motion? Opposed, if any? It is defeated.

Okay, now we have a series—one, two, three, four, five, six—of government amendments. Mr. Dhillon, I think you’re on.

Mr. Dhillon: I move that subsection 8(1) of the bill be struck out and the following substituted:

“Notice of proposal required before refusal to issue or to renew, or revocation of licence

“8(1) If the director proposes to refuse to issue a licence or to renew one, or to revoke a licence, he or she shall serve notice of the proposal, together with written reasons, on the applicant or licensee advising of the right to a hearing by the board if application is made to the board within 15 days after service of the notice by the director, and the applicant or licensee may within such time apply to the board for a hearing.”

The Chair: Okay. Any discussion?

Mr. Dhillon: Like I said earlier, we’re proposing that an appeal of a decision not to issue, renew or revoke a licence would be heard by the Ontario Labour Relations Board.

The Chair: Any further discussion?

Ms. DiNovo: Well, I’m pleased somewhat to see that we’re not having them go to the Supreme Court. So that’s good. It’s good that the hearing is going to go before the Ontario Labour Relations Board.

I would suggest that at the very least we have to spell out what board we’re talking about here—the Ontario Labour Relations Board. Clearly, of course we would like to see it much more stringent in terms of how that happens because, again, here is an issue just like the others where someone can squirm around the letter of the law and continue doing business when they shouldn’t be. But I have to say that it is better than what is in the original bill, because it puts the possible temporary agency licensee in the general direction of the Ontario Labour Relations Board. But, again, the problem here is that we haven’t asked them to do much, if anything, by way of not qualifying for that licence.

However, it is in the right direction, but not in the right direction enough, so I’m going to vote against it. I just had to say something nice about the government.

The Chair: Thank you. Any other further discussion? Okay, we’ll call the question. All those in favour? Opposed, if any? Carried.

Subsection 8(2).

Mr. Dhillon: I move that subsection 8(2) of the bill be amended by striking out “supervisor” and substituting “director”.

It’s just a housekeeping motion.

The Chair: All in favour? Great. Let it be noted that that was carried without a dissenting vote.

Subsection 8(3).

Mr. Dhillon: I move that subsection 8(3) of the bill be struck out and the following substituted:

"Powers of board

"(3) Where an applicant or licensee applies to the board for a hearing in accordance with subsection (1), the board shall appoint a time for and hold the hearing and, on the application of the director at the hearing, may by order direct the director to carry out the proposal or refrain from doing so and take such other action as the board considers the director ought to take in accordance with this act and the regulations, and for such purposes the board may substitute its opinion for that of the director."

Again, it's just another housekeeping amendment to recognize the Ontario Labour Relations Board.

The Chair: Okay. Further discussion? Seeing none, all in favour? Opposed? Carried.

Subsection 8(4).

Mr. Dhillon: I move that subsection 8(4) of the bill be amended,

"(a) by striking out 'supervisor' wherever it appears and substituting in each case 'director'; and

"(b) by striking out 'to the judge to whom application is made for a hearing' and substituting 'before the board'."

The Chair: Discussion?

Ms. DiNovo: Again, I've made my thoughts known on this section, but surely at the very least we have to spell out that this is the Ontario Labour Relations Board we're speaking about here. This is really a friendly amendment to an amendment: Where it says "board," we say "Ontario Labour Relations Board." Otherwise, what board?

The Chair: Is that a problem?

The Clerk of the Committee (Ms. Tonia Grannum): It's in the definition.

Ms. DiNovo: It is? Okay.

The Chair: Any further discussion? All those in favour? Opposed, if any? Subsection 8(4) is carried.

We're going on to subsection 8(5).

Mr. Dhillon: I move that subsection 8(5) of the bill be struck out and the following substituted:

"Extension of time for hearing

"(5) If an application is made by an applicant or licensee for a hearing under subsection (1), the board may extend the time for making the application, either before or after expiration of the time fixed therein, if satisfied that there are apparent grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the board may give such directions as it considers proper consequent upon the extension."

It's housekeeping.

The Chair: Discussion? All those in favour? Opposed, if any? It's carried.

Subsection 8(6).

Mr. Dhillon: I move that clause 8(6)(b) of the bill be struck out and the following substituted:

"(b) where the licensee is served with notice that the director proposes to refuse to grant the renewal, until the time for applying to the board for a hearing expires and, where a hearing is applied for, until the board has made an order."

This is similar to the previous one.

The Chair: Discussion?

Ms. DiNovo: Yes, I just feel it's incumbent on me. Clearly, the government has broken up, section by section, where I put the amendment all in one piece.

One of the concerns we have here is that it's very easy to get around this. That's why in our amendment we suggested registered mail, we suggested how we go about this. There are very few teeth, there's very little detail, so that somebody could easily drag this out forever. Meanwhile, presumably, the people who are working for them in a temporary agency could, for example, not be being paid, not be getting benefits, be working in unsafe circumstances.

The whole reason for tightening up these various sections, in terms of how people are served and how justice is sought, is because there are literally people out there risking their lives in some instances while this process is going on. So you want to make it as tight as possible.

I just want to let the record show that, again, here is a situation where it's not tight enough to really safeguard the interests of workers.

The Chair: Any further discussion? All those in favour? Opposed, if any? That is carried.

That begs the question, shall section 8, as amended, be carried? Carried.

That brings us to section 9. The Chair notes that there are three amendments: a third party amendment and two government amendments.

We'll begin with page 13(a), the third party motion.

Ms. DiNovo: I move that section 9 of the bill be struck out and the following substituted:

"Parties

"9(1) The director, the applicant or licensee who has applied for the hearing and such other persons as the board may specify are parties to the proceedings before the board under section 8.

"When notice to be given

"(2) Notice of a hearing under section 8 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

"Examination of documentary evidence

"(3) An applicant or licensee who is a party to proceedings under section 8 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing."

Again, this was in a sense pursuant to the amendment that was voted down, but to give the licensees and applicants an opportunity to defend themselves.

1650

The Chair: Any discussion? Hearing none, I'll call the question on the amendment. All those in favour? Opposed, if any? It's defeated.

Government motion, subsection 9(1).

Mr. Dhillon: I move that subsection 9(1) of the bill be amended,

(a) by striking out "supervisor" and substituting "director"; and

(b) by striking out "judge" wherever it appears and substituting in each case "board".

The Chair: Similar to a previous amendment. Any discussion? All those in favour? Carried.

Subsections 9(4) and (5), government motion.

Mr. Dhillon: I move that subsections 9(4) and (5) of the bill be struck out and the following substituted:

"Rules of practice

"(4) The chair of the board may make rules governing the board's practice and procedure and the exercise of its powers, and may provide for forms and their use.

"Rules not regulations

"(5) Rules made under this section are not regulations within the meaning of the Regulations Act.

"Same, transition

"(6) On the day on which part III of the Legislation Act, 2006 comes into force, subsection (5) is amended by striking out 'the Regulations Act' and substituting 'part III (regulations) of the Legislation Act, 2006'."

The Chair: Any discussion? All those in favour? Opposed, if any? It's carried.

That begs the question, shall section 9, as amended, carry? Carried.

There's a notice: Mr. Dhillon recommends voting against section 10. So do the New Democrats. Any discussion on section 10, therefore?

Shall section 10 carry? No. It is lost.

Section 11: I note there are two amendments, the first being an NDP amendment.

Ms. DiNovo: I move that section 11 of the bill be amended,

(a) by striking out "may provisionally refuse" and substituting "shall provisionally refuse"; and

(b) by striking out "sections 8, 9 and 10" and substituting "sections 8 and 9".

Again, strengthening and a little housekeeping.

The Chair: Okay. Legal counsel, any comment here?

Mr. Albert Nigro: No, thank you.

The Chair: Okay. Any further discussion? All those in favour? Opposed, if any? Carried.

That brings us to motion 16.

Mr. Dhillon: I move that section 11 of the bill be struck out and the following substituted:

"Provisional order of director

"11. Despite section 8, the director, by notice to a licensee, and without a hearing, shall provisionally refuse renewal of or revoke the licensee's licence where the

operation of the temporary help agency under the licence is, in the director's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the director so states in the notice, giving reasons, and thereafter sections 8 and 9 apply as if the notice given under this section were a notice of proposal to revoke the licence served under subsection 8(1)."

This would allow a licence to be revoked instead of being suspended. It would allow better flexibility for the administration and enforcement of the bill. Where a licence is revoked, a temporary help agency would have the right to appeal or to apply for a new one.

The Chair: Okay. Comment from the clerk or legal counsel?

The Clerk of the Committee: You just amended section 11 by striking out words and substituting words, and we carried that. Now you're going to strike out what you just amended. Is there a way to word it that—

Mr. Dhillon: Can we ask advice from legal counsel?

Mr. Nigro: Well, the only thing I can suggest is, "I move that section 11 of the bill, as amended by the NDP motion to amend section 11, be struck out," because it has now been amended.

Mr. Dhillon: That's fine.

The Chair: That's consistent, I think. That that was struck out shall be similarly struck out in the subsequent motion.

Ms. DiNovo: Just to be clear here, and then end without a hearing "shall provisionally refuse renewal" is what we're then saying—right?—not "may," which we just passed in the motion.

The Chair: Did you see that, Mr. Dhillon, the second line of 11, where it says "may"? We had changed it in the previous amendment to "shall."

Mr. Dhillon: That's fine.

The Chair: You're okay with that?

Mr. Dhillon: Yes.

The Chair: Okay.

The Clerk of the Committee: You had a replacement motion, 16r. That's the one that actually does say "shall."

Mr. Dhillon: Right.

The Clerk of the Committee: That's the one you should have—

Mr. Dhillon: I read the wrong—yeah.

The Clerk of the Committee: So if we withdraw—

The Chair: So let's withdraw this and—

Mr. Dhillon: Do you want me to read the replacement?

The Clerk of the Committee: Yes.

The Chair: The only difference in the reading is the word "shall"? Again, the Chairman's fault. My apologies. It's the one white sheet in the whole bunch, and I missed it.

Mr. Dhillon: My apologies, Chair. I had that before.

I move that section 11 of the bill, as amended by the motion of the NDP, be struck out and the following substituted:

"Provisional order of director

"11. Despite section 8, the director, by notice to a licensee, and without a hearing, shall provisionally refuse renewal of or revoke the licensee's licence where the operation of the temporary help agency under the licence is, in the director's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the director so states in the notice, giving reasons, and thereafter sections 8 and 9 apply as if the notice given under this section were a notice of proposal to revoke the licence served under subsection 8(1)."

The Chair: All in favour? Carried.

Shall section 11, as amended, carry? Okay.

Shall section 12 carry?

Mr. Dhillon, you're recommending voting against section 12?

Mr. Dhillon: Yes, Chair.

The Chair: Shall section 12 carry? Those in favour? Those opposed?

Ms. DiNovo: Sorry. Question: Why? Why are you recommending voting against section 12?

The Chair: The question, Mr. Dhillon, is why are you pulling this out?

Mr. Dhillon: Yes, Chair, one moment. It's just to eliminate the unnecessary administrative burden. A copy of the licence can be displayed at the various branches of a temp agency. If they do have branches, they can just photocopy it and display it.

1700

Ms. DiNovo: I thought that was the intention of the bill, and I thought—I'm just looking for where it appears in another place. I thought we had just voted that we wanted them to display—

Mr. Dhillon: Yes. There would be one original. If they're franchisees or if they're other branches, they can photocopy the licence and display it in each of the branches.

Ms. DiNovo: Okay. I draw the committee's attention to section 5. This is motion 3 of the government. It says, "A licensee shall display a copy of the licence in a conspicuous place in all premises in which the business is operated, where it is likely to come to the attention of any of the licensee's employees who attend the premises," which is actually stronger than section 12.

The Chair: You're not disputing that, as I understand.

Mr. Dhillon: No, I'm not.

Ms. DiNovo: So basically what Mr. Dhillon is saying is that we're substituting something a little stronger for section 12, is that correct?

The Chair: That's correct.

Ms. DiNovo: Okay. As long as we understand that, fine.

The Chair: You've recommended, Mr. Dhillon, that the committee vote against section 12?

Mr. Dhillon: Yes, Chair.

The Chair: Okay. All in favour of section 12? Those opposed? Everybody. It's not carried. Are those the right words, "Not carried"?

The Clerk of the Committee: Yes.

The Chair: Okay. That brings us to section 13, a government motion found on page 17.

Mr. Dhillon: I move that section 13 of the bill be amended by striking out "Minister of Labour" and substituting "director".

The Chair: Any discussion?

Mr. Dhillon: Technical amendment.

The Chair: Okay. All in favour? Carried.

Shall section 13, as amended, carry? Carried.

Section 14: a government amendment.

Mr. Dhillon: I move that section 14 of the bill be amended by striking out "for employment agencies or any class of employment agency" and substituting "by temporary help agencies".

The Chair: Any discussion? Ms. DiNovo.

Ms. DiNovo: Again, as a former agency owner, many agencies are permanent employment agencies but also do temporary placement. If you simply restrict it to those who call themselves "temporary agencies," you're going to miss a great many agencies that are involved in temporary placement as part, but not all, of their business. Surely we want to make sure that those agencies as well are licensed. Again, this covers a huge swath of agencies that are not only temporary agencies. I'm thinking of some of the very largest ones, Drake, for example. Even Office Overload does permanent placement occasionally. I think this very simple little section might just negate the entire bill if you don't make the definition a little broader. Going back to the earlier amendment, we would like to see it even broader still, but just "temporary help agencies"—presumably someone could call themselves an "employment agency" and not a "temporary help agency," even though they do 100% temporary help, and not have to get a licence. Is that really what we're saying here?

The Chair: Any further discussion? The Chair will put the question on the amendment. Those in favour? Opposed? It's carried.

Shall section 14, as amended, carry? Carried.

On 14.1, there's a government amendment found on page 19.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Joint and several liability for wages

"14.1(1) The operator of a temporary help agency and the operator's client are, in relation to any employee of the temporary help agency for whose labour the client has agreed to pay the operator, jointly and severally liable for any wages owing to that employee under subsection 11(1) or (5) of the Employment Standards Act, 2000.

"Exception

"(2) Except as prescribed, the client is not liable for termination pay, severance pay or amounts deemed under subsection 62 (2) of the Employment Standards Act, 2000 to be unpaid wages owing to the employee.

"Employment Standards Act, 2000

"(3) This section is enforceable against the client under the Employment Standards Act, 2000 as if the

operator of the temporary help agency and the client were one employer under section 4 of the act.”

This amendment would make the client company and the temp agency liable for unpaid wages. Currently, under the Employment Standards Act, the temp agency is only liable—

The Chair: Under the Employment Standards Act, 2000, right?

Mr. Dhillon: Yes—even though the client company receives the benefit of the services provided by the temp worker. Also, this would provide a regulation-making power to allow termination pay and severance pay to be added at a later date.

The Chair: Discussion?

Ms. DiNovo: I think it’s a very good thing.

The Chair: Okay. All in favour of this very good thing? Carried.

Section 14.2.

Mr. Dhillon: I move that the bill be amended by adding the following section:

“Inspection by employment standards officers

“14.2(1) An employment standards officer may on notice at any reasonable time enter upon the business premises of a person operating a temporary help agency or a client of a temporary help agency to make an inspection.

“Powers during an inspection

“(2) An employment standards officer conducting an inspection may,

“(a) examine a record or other thing that the officer thinks may be relevant to the inspection;

“(b) require the production of a record or other thing that the officer thinks may be relevant to the inspection;

“(c) remove for review and copying a record or other thing that the officer thinks may be relevant to the inspection;

“(d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place; and

“(e) question any person on matters the officer thinks may be relevant to the inspection.

“Obstruction

“(3) No person shall hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an employment standards officer during an inspection.

“Same

“(4) No person shall,

“(a) refuse to answer questions on matters that an employment standards officer thinks may be relevant to an inspection; or

“(b) provide an employment standards officer with information on matters the officer thinks may be relevant to an inspection that the person knows to be false or misleading.

“Separate inquiries

“(5) No person shall prevent or attempt to prevent an employment standards officer from making inquiries of

any person separate and apart from another person under clause (2)(e).”

The Chair: Any discussion?

Mr. Dhillon: This amendment outlines the inspection powers of the employment standards officer to ensure compliance with the act. It’s basically modelled after the powers granted under the Consumer Protection Act.

The Chair: Further discussion?

Ms. DiNovo: I don’t have a problem except that, again, in the larger picture, the problem is with the prosecution. Here’s this employment standards officer going in and doing all this good work, and then it comes to naught because there are so many loopholes that the temporary—or whatever they’re going to call themselves—can get around and about this.

My other major concern here is that there is nothing in this act that deals with the number of employment standards officers, the number of times someone will possibly be visited, the regulations that really compel any enforcement of this act at all. For example, we know that only 1% of all employers across Ontario ever get a visit from a government agent—of any sort, for that matter, but certainly around employment standards. So now we’re going to ask this already over-committed pool of employment standards officers to add to their burden and now they’re going to be inspecting agencies as well. It sounds good, but it ain’t going to fly because there’s not enough of them to begin with, and they’re already over-burdened.

So I would certainly want to see—again, this is in the regulatory aspect of this—that there’s some funding put toward hiring more employment standards officers if we’re going to be asking them to do more work. I’m not sure, Mr. Chair, where we would put that in this bill, because there’s not money attached here, but without it, it really doesn’t mean much.

1710

The Chair: Any further discussion? Those in favour of this amendment? Opposed, if any? It’s carried.

That brings us to 14.3, which is three pages, beginning on page 21—which you have to read, unfortunately, Mr. Dhillon.

Mr. Dhillon: I move that the bill be amended by adding the following section:

“Search with warrant

“14.3(1) Upon application made without notice by an employment standards officer, a justice of the peace may issue a warrant if he or she is satisfied on information under oath that there is reasonable ground for believing that,

“(a) a person has contravened or is contravening this act or the regulations; and

“(b) there is,

“(i) in any building, dwelling, receptacle or place anything relating to the contravention of this act or the regulations, or

“(ii) information or evidence relating to the contravention of this act or the regulations that may be obtained

through the use of an investigative technique or procedure or the doing of anything described in the warrant.

“Powers under warrant

“(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an employment standards officer,

“(a) to enter or access the building, dwelling, receptacle or place specified in the warrant;

“(b) to use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form;

“(c) to exercise any of the powers specified in subsection (10);

“(d) to use any investigative technique or procedure or do anything described in the warrant.

“Entry of dwelling

“(3) Despite subsection (2), an employment standards officer shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless,

“(a) the justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling; and

“(b) the justice of the peace authorizes the entry into the dwelling.

“Conditions on search warrant

“(4) A warrant obtained under subsection (1) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

“Expert help

“(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons as necessary to accompany and assist the employment standards officer in respect of the execution of the warrant.

“Time of execution

“(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise.

“Expiry of warrant

“(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an employment standards officer.

“Use of force

“(8) An employment standards officer may call upon police officers for assistance in executing the warrant and the employment standards officer may use whatever force is reasonably necessary to execute the warrant.

“Obstruction

“(9) No person shall obstruct an employment standards officer executing a warrant under this section or withhold from him or her or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant.

“Assistance

“(10) An employment standards officer may, in the course of executing a warrant, require a person to produce the evidence or information described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the evidence or information described in the warrant and the person shall produce the evidence or information or provide the assistance.

“Return of seized items

“(11) An employment standards officer who seizes any thing under this section or section 14.4 may make a copy of it and shall return it within a reasonable time.

“Admissibility

“(12) A copy of a document or record certified by an employment standards officer as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.”

The Chair: Do you want to comment on any of that, or is that sufficient? Any comment?

Ms. DiNovo: I commend the fact that this sounds tough, but the reality is that it sounds tough but it's enforcing what, exactly? I mean, what are they going after these agencies for? That they don't have a licence on their wall? You're going to get police officers in here to take these people out because they don't have a piece of paper hanging up and they haven't paid their triannual fee? Because there's no teeth in the sense of what we're asking them to do to get that licence—they could have violated employment standards, they can weasel around the hearing of recommendations and put it off forever—I can't ever imagine this actually coming to be.

But, hey, I guess it's good to sound tough rather than be tough in terms of breaking of the employment standards, and it certainly builds on the measly little three-liner that section 14 used to be. But, again, there's something blackly funny about going after an agency with this much strength just because they don't have a licence on their wall without any further stipulations about what that licence means.

I'm going to vote for it. I just wanted to read that into the record.

The Chair: All those in favour? Carried without a dissenting vote.

That brings us to section 14.4.

Mr. Dhillon: I move that the bill be amended by adding the following section:

“Seizure of things not specified

“14.4 An employment standards officer who is lawfully present in a place pursuant to a warrant or otherwise in the performance of his or her duties may, without a warrant, seize any thing in plain view that the employment standards officer believes on reasonable grounds will afford evidence relating to a contravention of this act or the regulations.”

This outlines the inspection powers of the employment standards officer to ensure compliance and, again, it's

modelled after the powers granted under the Consumer Protection Act.

The Chair: Any discussion?

Ms. DiNovo: Again, not enough employment standards officers to do the job that they're required to do now; so the problems of enforcement and the problems of what they're actually enforcing, which is, as the bill was written, not very much.

The Chair: Shall this amendment carry? Opposed? Carried.

That brings us to section 14.5.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Searches in exigent circumstances

"14.5(1) An employment standards officer may exercise any of the powers described in subsection 14.3(2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.

"Dwellings

"(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling.

"Use of force

"(3) The employment standards officer may, in executing authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary.

"Applicability of section 14.3

"(4) Subsections 14.3(5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section."

The Chair: Any discussion? Okay. All those in favour? Carried.

Section 14.6.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Posting of notices

"14.6 An employment standards officer may require the operator of a temporary help agency to post and to keep posted in or upon the operator's premises in a conspicuous place or places where it is likely to come to the attention of any of the operator's employees who attend the premises,

"(a) any notice relating to the administration or enforcement of this act or the regulations that the employment standards officer considers appropriate; and

"(b) a copy of a report or part of a report made by the employment standards officer concerning the results of an inspection or investigation."

1720

The Chair: Any discussion?

Ms. DiNovo: I just feel very sorry for these poor, beleaguered and overworked employment standards officers who are going to go to all this trouble to carry out these incredible searches and seizures and then have them come to nothing because the director "may" but not "should" enforce any of this. Of course, there are all sorts of ways of getting around even that, depending on what you call yourself—interesting.

The Chair: I'll call the question on that, on 14.6. All those in favour? Anybody opposed? Oh, good. Carried.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Certificate of appointment

"14.7 An employment standards officer exercising any power under section 14.1, 14.2, 14.3, 14.4, 14.5 or 14.6 shall, on request, provide evidence of his or her appointment under the Employment Standards Act, 2000."

The Chair: It's "produce evidence," not "provide."

Mr. Dhillon: Yes, "produce evidence of his or her appointment under the Employment Standards Act, 2000."

It's pretty straightforward, Chair.

The Chair: Any discussion? Those in favour? Those opposed? Carried.

Section 14.8.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Compellability

"Employment standards officer

"14.8(1) An employment standards officer is not a competent or compellable witness in a civil proceeding respecting any information given or obtained, statements made or received, or records or other things produced or received under this act except for the purpose of carrying out his or her duties under it.

"Records

"(2) An employment standards officer shall not be compelled in a civil proceeding to produce any record or other thing he or she has made or received under this act except for the purpose of carrying out his or her duties under this act.

"Persons from board

"(3) Except with the consent of the board, none of the following persons may be compelled to give evidence in a civil proceeding or in a proceeding before the board or another board or tribunal with respect to information obtained while exercising his or her powers or performing his or her duties under this act:

"1. A board member.

"2. The registrar of the board.

"3. An employee of the board."

The Chair: Any discussion? All those in favour? Carried without dissenting vote.

Section 14.9.

Mr. Dhillon: I move that the bill be amended by adding the following section:

"Reprisal

"14.9(1) No client of an operator of a temporary help agency or person acting on behalf of a client shall intimidate or penalize an employee of the operator or threaten to do so because the employee,

"(a) asks the client or the operator to comply with the Employment Standards Act, 2000 and its regulations;

"(b) makes inquiries about his or her rights under the Employment Standards Act, 2000;

"(c) files a complaint with the ministry under the Employment Standards Act, 2000;

“(d) exercises or attempts to exercise a right under the Employment Standards Act, 2000;

“(e) gives information to an employment standards officer;

“(f) testifies or is required to testify or otherwise participates or is going to participate in a proceeding under the Employment Standards Act, 2000; or

“(g) is or will become eligible to take a leave, intends to take a leave or takes a leave under part XIV of the Employment Standards Act, 2000.

“Termination of assignment

“(2) Without restricting the generality of subsection (1), no client of an operator of a temporary help agency or person acting on behalf of a client shall terminate or seek the termination of the assignment of an employee of the operator to the client for any reason described in subsection (1).

“Onus of proof

“(3) In any proceeding under this act, the onus of proof that a client did not contravene this section lies upon the client.

“Enforcement

“(4) This section is enforceable against the client under the Employment Standards Act, 2000 as if the client were an employer of the employee under that act.”

Ms. DiNovo: I don't have a problem with this. Again, the general caveat is that it's virtually unenforceable, particularly in this instance, where you're looking at precarious employment for people, many of them immigrants who don't have English language skills and who may not see that licence or be able to read that licence on the wall. There's no way really of getting this information out to them. They might think this sounds wonderful, but the reality of actually phoning somebody and getting some prosecution happening that would actually change their lives in any way is virtually untouched here, even though this is there.

It's sad that the letter of the law will not be applied here, because this is exactly what we want to see happen and that won't happen with this bill.

The Chair: Any further discussion? All those in favour? Carried.

All that having been done, shall section 14, as amended, be carried?

Interjection.

The Chair: We don't need to ask that; you can forget that. We did section 14. These are new ones, so they're not amendments to anything. We're making history as we pass each of these resolutions.

We can go to section 15, page 28, the government.

Mr. Dhillon: I move that section 15 of the bill be struck out and the following substituted:

“Offence

“15. Every person who contravenes this act or the regulations or fails to comply with any requirement under this act or the regulations is guilty of an offence and on conviction is liable,

“(a) if the person is an individual, to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months or to both;

“(b) subject to clause (c), if the person is a corporation, to a fine of not more than \$100,000; and

“(c) if the person is a corporation that has previously been convicted of an offence under this act,

“(i) if the person has one previous conviction, to a fine of not more than \$250,000, and

“(ii) if the person has more than one previous conviction, to a fine of not more than \$500,000.”

These are setting out the penalties for the violation of the act.

Ms. DiNovo: I like it. I think this adds some strength to the bill—not that it's ever going to be enforced, but it certainly sounds good.

There's one larger issue, though. In light of what we've already decided here, I'm noticing that at the top of every page it says, “An Act respecting employment agencies.” Does the government not want to change that to “temporary agencies” all along the way?

Mr. Dhillon: We will be changing that.

Ms. DiNovo: Therein lies the problem.

The Chair: Any further discussion? All those in favour? Carried.

Shall section 15, as amended, carry? Carried.

Section 16; page 29.

Mr. Dhillon: I move that section 16 of the bill be struck out and the following substituted:

“Regulations

“16. The Lieutenant Governor in Council may make regulations,

“(a) regulating and controlling the manner in which the business of temporary help agencies shall be operated;

“(b) prescribing the records, books and accounts that shall be kept by the operator of a temporary help agency;

“(c) regulating the fees that may be charged by the operator of a temporary help agency to an employee or prospective employee of the operator, or prohibiting the charging of such fees;

“(d) prohibiting or regulating the making of agreements, between operators of temporary help agencies and clients, that prohibit or impose restrictions on the hiring of an employee of the operator by a client and, without restricting the generality of the foregoing, regulating the making of agreements by limiting the amount that the client can be required to pay to the operator in the event of such a hiring;

“(e) requiring the operator of a temporary help agency who assigns an employee to a client to give the employee, not less than the prescribed number of hours before the employee is to report to the client, a written statement setting out,

“(i) the client's name, address and telephone number, and

“(ii) the time at which the employee is to report to the client;

“(f) prescribing anything that is referred to in this act as being prescribed;

“(g) prescribing any or all of the following for the purposes of subsection 14.1(2):

“(i) termination pay,

“(ii) severance pay,

“(iii) amounts deemed under subsection 62(2) of the Employment Standards Act, 2000 to be unpaid wages owing to the employee.”

1730

The Chair: Any discussion?

Ms. DiNovo: First of all, I don't want “may,” and I want “shall,” of course—“the Lieutenant Governor in Council shall make regulations”—because regulations are absolutely necessary. There are temporary agencies out there that are charging their clients a fee for applying. We, in the New Democratic Party, think it should be illegal that you charge someone a fee simply for applying to your agency to look for work, and this section doesn't do anything about that.

I would like to propose an amendment to this bill declaring that charging of fees to applicants of temporary agencies be made illegal, and I would like that noted.

The Chair: Okay, we'll note that. Any further discussion? All those in favour, then, of this amendment on page 29? Opposed, if any? It's carried.

Shall section 16, as amended, carry? Carried.

Ms. DiNovo: Excuse me, Mr. Chair. I did propose an amendment, so we'd have to vote on my amendment, as well. Do I have to get it in writing to you?

The Chair: You've got to move it. You can't just reference it. You asked that it be noted, which would normally go in the minutes.

The Clerk of the Committee: We'd have to seek unanimous consent to reopen this section to deal with it.

The Chair: We need unanimous consent to reopen it because we carried the motion. Is there unanimous consent?

Mr. Dhillon: No.

The Chair: Okay. So shall section 16, as amended, carry? Opposed? Carried.

Shall section 17 carry? Carried.

Section 18: There is a government amendment found on page 30.

Mr. Dhillon: I move that section 18 of the bill be struck out and the following substituted:

“Short title

“18. The short title of this act is the Temporary Help Agencies Act, 2007.”

The Chair: Any discussion?

Ms. DiNovo: Again, it would be so easy to evade this. This is child's play. All you have to do is call yourself an employment agency and not a temporary help agency. At least the original title of the bill said something. It said “Protecting Vulnerable Workers Act (Employment Agencies).” Now, really, by simply changing the title of what you do, you can evade all of this bill and all of your responsibilities under this licensing system. That seems to me to be simply a huge waste of the Legislature's

time, a huge waste of our time on this committee. At the end of the day, I fear it will not help vulnerable workers, which is what I think Mr. Dhillon set out to do at the beginning.

Mr. Dhillon: With all due respect, I would have to disagree with that, because a lot of time and effort has been put into this, and the amendments that we put forth today would be very effective in curtailing the complaints that I and my colleagues, I'm sure, on this side and opposite—I think the amendments that we have here today go a long way to addressing the issues that were brought forward by the stakeholders.

Ms. DiNovo: I'd just like to ask the government side for an answer to that question: What is to prevent a temporary help agency from simply changing their name and evading every aspect of this bill; not calling themselves a temporary help agency, pure and simple?

The Chair: It's just the title of the act. It's not a reference to what they're calling themselves. Is that correct?

Ms. DiNovo: Yes, but you know the intent of my question. I think we're in agreement around this table that we would like to help vulnerable workers who work for temporary agencies and that we would like this act to do that job. In reality, all an employment agency needs to do is to call itself an employment agency to evade this act.

Mr. Dhillon: I'm not in agreement with that. I think we can make so many hypothetical scenarios, but the laws are what they are within the Ministry of Labour and the Employment Standards Act and what we have in front of us.

The Chair: The intent isn't to open a window for somebody not to have to comply with the act. Is that what you're saying?

Mr. Dhillon: Yes.

The Chair: Okay. We're going to call the question. All those in favour? Opposed?

Ms. DiNovo: Sorry, what are we voting on?

The Chair: We're voting on section 18, page 30. All those in favour? Opposed, if any? Carried.

Shall section 18, as amended, carry? Carried.

We're getting there.

The long title is a proposed government amendment, 31.

Mr. Dhillon: I move that the long title of the bill be struck out and the following substituted:

“An Act respecting temporary help agencies”

The Chair: Same points?

Ms. DiNovo: You've heard my concerns about that, and as I say, I think the concerns are very valid. I would love to hear from the government, as I've asked them, what their answer is for evasion just by simply changing the title of what it is that you do, but I haven't heard a satisfactory answer, so I'll vote against it.

Mr. Dhillon: When we're talking about the employment agencies, the placement agencies, like Kelly and Adecco, there's a contract between the prospective employee and, say, Kelly, and once a fee is paid, the recruiter is out of the picture. With a temp agency, it's a

continuous line of work. I think that's the difference: The temp agency is always in play with the client and the prospective employee.

We're satisfied that the amendments, as we've discussed this afternoon, are sufficient to address the concerns of the stakeholders.

The Chair: And you don't share Ms. DiNovo's concerns?

Mr. Dhillon: I do not.

Ms. DiNovo: Again, all an agency has to do is to make some permanent placements and call themselves an employment agency, even though 90% or 95% of their business is temporary help placement. They would get around all the restrictions and all of what I think are some pretty good recommendations in this act, so of course I'm going to vote against this.

The Chair: We'll call the question. All those in favour? Opposed? It's carried.

Shall the title of the bill, as amended, carry? Opposed? It's carried.

Shall Bill 161, as amended, carry? Carried.

Members of this august committee, shall I report on behalf of this committee this bill, as amended, to the House? Those in favour? Opposed, if any? The reporting was carried without dissenting votes, so we shall report it.

Members of the standing committee on the Legislative Assembly, I thank you for your patience and your good work. We stand adjourned.

The committee adjourned at 1740.

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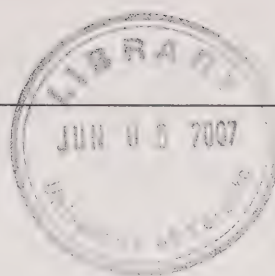
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Standing committee on the Legislative Assembly

Election Statute Law
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 17 May 2007

Jeudi 17 mai 2007

The committee met at 0902 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Ted McMeekin): As members know, we advertised for presenters, Minister, and I suppose so many people have had input on this bill that nobody wanted to come and present to us. So we decided that we would have—

Mr. Michael Prue (Beaches–East York): Or conversely, they had so little time that they didn't even see it.

The Chair: Maybe. In any event, we're here.

The subcommittee report, please, Ms. Mossop. Sorry, Minister. We'll read this, and then we can legitimately go to you.

Ms. Jennifer F. Mossop (Stoney Creek): Your subcommittee met on Monday, May 14, 2007, to consider the method of proceeding on Bill 218, An Act to amend the Election Act and the Election Finances Act and make related amendments to other Acts, and recommends the following:

(1) That the committee meet for public hearings at Queen's Park on Bill 218 on Thursday, May 17, 2007.

(2) That when the committee meets in the morning, it meet from 9 a.m. to 12 p.m. pursuant to the order of the House, subject to change and witness demand, and when the committee meets in the afternoon, it meet from 3:30 p.m. to 6 p.m., subject to change and witness demand.

(3) That the clerk of the committee post information regarding public hearings on Bill 218 on the Ontario parliamentary channel and the committee's website.

(4) That interested parties who wish to be considered to make an oral presentation on Bill 218 contact the clerk of the committee by 12 p.m. on Wednesday, May 16, 2007.

(5) That the minister of democratic renewal be invited to make a 10-minute presentation before the committee, should the committee meet for the purpose of public hearings.

(6) That the Chief Election Officer be invited to make a 20-minute presentation before the committee, inclusive of questioning from committee members.

(7) That all witnesses be offered a maximum of 15 minutes for their presentation.

(8) That the deadline for written submissions on Bill 218 be 5 p.m. on Thursday, May 17, 2007.

(9) That pursuant to the order of the House, amendments must be filed with the clerk of the committee by 12 p.m. on Wednesday, May 23, 2007.

(10) That pursuant to the order of the House the committee meet for clause-by-clause consideration of Bill 218 on Monday, May 28, 2007, following routine proceedings.

(11) That the research officer provide the committee with background research on federal regulations of third party election advertising prior to public hearings.

(12) That the research officer provide the committee with a summary of public hearings by 5 p.m. on Tuesday, May 22, 2007.

(13) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Also, there's the other part on the NCSL.

The Clerk of the Committee (Ms. Tonia Grannum): We'll do that afterwards.

Ms. Mossop: We'll do that later? Okay, very good. That's it for that part.

The Chair: Thank you very much. We'll move to accept that. All in favour? Carried.

ELECTION STATUTE LAW
AMENDMENT ACT, 2007LOI DE 2007 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 218, An Act to amend the Election Act and the Election Finances Act and make related amendments to other Acts / Projet de loi 218, Loi modifiant la Loi électorale et la Loi sur le financement des élections et apportant des modifications connexes à d'autres lois.

DEMOCRATIC RENEWAL SECRETARIAT

The Chair: We're excited to have you with us, Minister. You're doing some interesting things, so we'd love to hear from you. Please take us through your proposal.

Hon. Marie Bountrogianni (Minister of Intergovernmental Affairs, minister responsible for democratic renewal): Thank you, and good morning. I'm really

pleased to have this opportunity to speak about Bill 218, the Election Statute Law Amendment Act, 2007. This legislation, if passed, would make it easier for Ontarians to exercise their right to vote, improve the voters' list and enhance the integrity of the electoral process.

The changes we have proposed include practical, cost-efficient steps to modernize elections in Ontario. These are changes that will make a difference. If passed, they would be in place for the October 10 election.

This is about ensuring that our electoral processes keep pace with the needs of Ontarians. We are aware of the demands facing Ontarians and we are committed to providing public services that are easy to access. We are also working to improve our current democratic system using a number of initiatives, such as this legislation.

If passed, Bill 218 would make it easier for Ontarians to vote by more than doubling the number of advance polls in regularly scheduled general elections, increasing the number of advance polling days from six to 13 at returning offices. There would also be 10 days of advance polls at other locations. In by-elections and other general elections, there will continue to be six advance polling days.

Ontarians lead very busy lives. This legislation, if passed, would extend the polling day by one hour to 9 p.m. so people would have more time to vote on election day. This decision was based on our understanding of when Ontarians were most likely to vote. Polls would close at 8 p.m. in northwestern Ontario due to the time zone difference, but all Ontarians get an additional hour to vote.

It would establish additional accessibility criteria for selecting polling locations. Criteria for selecting polling locations will include convenience, capacity, familiarity and lack of geographic barriers. The need for compliance with the Human Rights Code and applicable standards adopted under the AODA, the Accessibility for Ontarians with Disabilities Act, 2005, will be emphasized. Elections Ontario would continue to be able to locate polling stations in apartment buildings, schools, municipal and provincial buildings. The increased number of advance poll days will make it easier for Ontarians with disabilities to vote by providing increased flexibility.

This legislation would allow the Chief Electoral Officer to pilot new voting or vote-counting technologies in by-elections, some that could make it easier for Ontarians with disabilities to cast their ballots. This legislation would allow the piloting of new technologies at the Chief Electoral Officer's discretion. It would remove the current requirement for only major party consent. More specifically, the CEO would be permitted to test alternative voting methods and equipment at by-elections without having to obtain the agreement of leaders of parties with 12 or more MPPs, which is the way it is now.

We think that the piloting of new voting methods, including technologies to improve accessibility for the disabled and online voting, is important. As long as the rules requiring consent from parties have been in place,

no piloting has occurred, so we've changed the rules to allow the CEO to do this.

Testing of new voting or vote-counting methods or equipment may be undertaken during by-elections if the CEO informs the Speaker and political parties and publishes the information on the Internet no later than 21 days before polling day. In addition to describing the new method or equipment in detail, the CEO must indicate which sections of the act will be affected. He must report to the Speaker about his testing within four months of the by-election polling day.

If the bill passes, the Chief Electoral Officer would be required to consult on administration of the Election Act with an advisory committee representing all of Ontario's registered political parties. The CEO would consult with parties about options for testing.

0910

If passed, this bill would also eliminate confusion at the ballot box. Candidates' party affiliation would appear on the ballot if they are endorsed by a party. Candidates not endorsed by a party could be identified as independents, at the candidate's request. This means that people who may want to vote for a particular policy belonging to a political party but who may not know their local candidate's name, especially if he or she is a new candidate, would now be able to do so because they could easily identify the party. This will help voters make more informed choices at the ballot box.

I would like to address concerns that were expressed during debate on this bill that there would be confusion between parties because of their names or acronyms. Under the Election Finances Act, the CEO is required to refuse to register a new party if the resemblance between the names or abbreviations of party names is likely to cause confusion.

This legislation also proposes a new security provision to ensure the integrity of the electoral process. We would improve security by requiring voters to present proof of identity and, in some cases, proof of residence, in order to vote. Identification would also be required to change information on the voters' list or add a name to the voters' list on polling day.

We no longer live in a world where the poll clerk or scrutineer knows everyone who shows up to vote by name. Identification is an appropriate safeguard in today's world. I don't think Ontarians will find it unreasonable to be asked for ID to do something as important as voting; you need your ID to rent a DVD these days.

The same day that we introduced this bill, I happened to be at a citizenship ceremony in my riding, Hamilton Mountain. When I told the new Canadians what I was doing, and I had to flee pretty quickly to come and introduce a bill, they found it hard to believe that identification is not required even now. For many of them, the reason they came to this country was because there wasn't democracy in their country. I guess you could say we sometimes take things for granted.

Concerns were raised in debate that we were toughening the rules for electors who are not on the

voters' list, while electors on the list would simply have to present their Elections Ontario voter information card. Bill 218 would require all electors to provide identification in order to vote. If a person is on the voters' list, even if he or she shows up with an EO voter information card, he or she would be required to provide proof of identity.

Let me be clear by saying that the CEO would determine what document or class of documents constitutes proof for the elector on the list and would continue, if this bill is passed, to determine the documents for an elector who is not on the voters' list on polling day. The CEO currently requires an elector who is not on the polling list to show one identification document that includes his or her name, address and signature. If they do not have the necessary documentation, they have the option of showing two identification documents, one that includes the elector's name and signature and the other that includes the elector's name and address. The CEO will post information about what documents constitute appropriate identification on Elections Ontario's website.

In this province, ID is required to rent a DVD but not to vote. Casting a vote is a serious act that deserves to have this new security provision.

Bill 218 would improve the voters' list. We want to ensure that Ontarians who should be on the voters' list are on the list. Elections Ontario would be required to update the permanent register of electors for Ontario through targeted registrations, using any method deemed appropriate by the Chief Electoral Officer, including enumeration, to ensure it is current. Voters would also be able to confirm online that they are on the list.

I believe that targeted registrations could be even more effective than targeted enumerations. Enumerations require workers to go door-to-door, which is not necessarily the most effective way to reach electors. Targeted registrations build on existing information in the permanent register of electors and allow more techniques to be used.

The Chief Electoral Officer can tailor his approach to communities that are less likely to be accurately included on the voters' list, which allows him to use methods that actually connect with these voters, such as by e-mail or phone. Apartment buildings—and I know, Mr. Prue, you were concerned about this—or any other communities with high tenancy turnovers or many new electors should and can be targeted. I'm sure that all of us support initiatives that would bring more Ontarians to the polls.

During debate, there were some misconceptions about enumeration and targeted registration that I would like to address. Under the proposed amendments, the Chief Electoral Officer would retain the same authority as he has currently to undertake enumerations. The Chief Electoral Officer can still choose to use enumeration if he believes that it is the best method to accurately register any of the targeted communities, such as some apartment buildings, or to update the permanent register of electors at any other time. In fact, he has more tools at his

disposal for ensuring that the permanent voters' lists are accurate than ever before.

The proposed amendments do not require the CEO to undertake less expensive methods first. He is an independent officer of the Legislative Assembly who will make his own decisions about what is most appropriate. Election activities are funded through accountable warrants.

As we are all aware, the citizens' assembly submitted its final report this week. The report, entitled *One Ballot, Two Votes: A New Way to Vote in Ontario*, recommends that Ontario adopt a new mixed member proportional system. The government will hold a referendum on this recommendation in conjunction with the next general election on October 10, 2007.

This bill amends the Election Act, which would now require the Chief Electoral Officer to conduct a neutral public education campaign to provide electors across Ontario with the following information:

- the date of the referendum;
- the content of the choices in the referendum;
- the referendum process; and
- the question electors will be asked to vote on.

Comprehensive public education is critical to ensuring Ontarians have the information they need to make their choice in a referendum on electoral reform. It is crucial that this information be neutral and non-partisan to allow Ontarians to make up their own minds on this important issue. These proposed amendments will enhance the integrity and accessibility of the electoral process without risking disruption to the October election.

Thank you for your consideration, and I look forward to your questions and discussion.

The Chair: Any questions or comments?

Mr. Norm Miller (Parry Sound-Muskoka): Thank you for your presentation. From my perspective, most of the changes look like they're positive and an improvement. I have just a couple of questions. There's a change to the blackout period for advertising. Can you explain what the logic is behind that?

Hon. Mrs. Bountrogianni: The blackout period was there during the times when we didn't have fixed election dates. This was there so that the government would not have an unfair advantage with respect to planning advertising. We all know when the election date is now, and there really is no reason for the blackout. We can advertise right up until the writ is dropped.

It didn't make any sense to have the blackout period. British Columbia did the same when they went to fixed election dates.

Interjection.

Hon. Mrs. Bountrogianni: The only blackout period now is the day before and the day of the election. That still remains. But the initial blackout period near the beginning, the first 10 days or two weeks of the election, is no longer there.

Mr. Miller: You said that there are 13 advance polls for general elections. I think more advance polls make sense. There's more opportunity for people to vote. Why

only six, then, for by-elections? Is it the time frame that's involved with by-elections?

Hon. Mrs. Bountrogianni: Again, it's the sheer number of people who vote on a general election versus a by-election.

Mr. Miller: I know our critic has a couple of amendments that he'll be presenting.

Interjection.

Hon. Mrs. Bountrogianni: I was just told there is a technical answer to that—not my specialty. Our legal adviser, if you wish, Jonathan, can address it.

The Chair: If you could introduce yourself.

Mr. Jonathan Batty: Yes. Members of the committee, my name is Jonathan Batty. I'm counsel to the Democratic Renewal Secretariat for the minister responsible.

If I may, the reason that there are 13 advance polling days for a regularly scheduled general election as opposed to for a by-election or a snap general election is that the close of nominations for by-elections and snap general elections is a week later than it is for regularly scheduled general elections.

Mr. Miller: So there's just not time available.

Mr. Batty: Exactly. You've got to have a couple of days between the close of nominations and the opening of advance polls.

Mr. Miller: Thank you. Our critic Norm Sterling has a couple of amendments, which he'll be presenting, one that sets limits on the amount of the third party advertising. He's got an amendment to set limits on that. Also, he has an amendment to require the Chief Election Officer, if he's going to do some testing of pilot methods of voting in by-elections—that there be the majority of a committee representing the three parties to approve that. I think it's the other amendment that he has. I'm sure he will more fully explain those couple of amendments in clause-by-clause.

0920

Hon. Mrs. Bountrogianni: He was nice enough to give me an advance copy. He told me that he wouldn't be here today, but he would present them during committee. I have instructed my legal staff to look them over and we'll take it under advisement.

Mr. Miller: There's also a component of this to do with education for the upcoming referendum. I had the opportunity to go to BC and it was something that was stressed, that they didn't have enough education on both sides of the question in their case, with their experience.

Hon. Mrs. Bountrogianni: Just to clarify, even though the education campaign and the authority to have an education campaign by the CEO is in this piece of legislation, the regulation for spending limits is under the referendum act, which of course has passed, and that regulation will be filed soon. Perhaps Mr. Sterling's concerns may be addressed when he sees that regulation, but we'll still look at what he's recommended.

Mr. Prue: Just a couple of questions. I just want to be clear on the enumeration. This will not allow for a general enumeration—that's my reading of the bill—is

that correct? It will allow only for spot enumerations at the call of the CEO.

Mr. Batty: No. The Chief Election Officer's current powers of enumeration are not being diminished. In fact, his powers of getting people onto the permanent register are being supplemented. So he has more powers. He can, in fact, under these new powers, conduct enumeration activities in a small or a large fashion, as he determines necessary, to get people—

Mr. Prue: Does he have the authority to ask for an enumeration for all 103 or 107 ridings across Ontario, and to do an enumeration as was done 20 years ago?

Mr. Batty: Under the existing act, he has the power to do an enumeration in all or part of an electoral district. Theoretically, he could require that for every electoral district in Ontario. Those powers, and the structure of those powers, are not being changed. He still has that capacity under the statute.

Mr. Prue: In terms of the identification, we have—if anyone has gone to many of the northern aboriginal communities, you will see that there is a dearth of identification. There are no birth certificates—hardly anyone has them; they don't have drivers' licences because there are no roads; they don't have passports; they often don't have health cards because they don't really need them. What kind of identification do you expect to be produced in these aboriginal communities, where there is no identification?

Hon. Mrs. Bountrogianni: The Chief Election Officer will determine what identification is necessary, but even now, if you're not on the voters' list, you do need to show identification and if you don't have identification, for whatever reason, you can sign the statutory declaration saying who you are. Basically, you're trusted on that particular day, but if it ever comes to light that you are not who you are, then there can be some accountability. That's the answer to that question. If, for whatever reason, there cannot be identification, it won't be very much different than how it is now for people not on the voters' list. That just gets transferred to everybody.

Mr. Prue: Okay. So you're telling me that you do not anticipate any problems for people who show up and who do not have identification? I'm thinking that in cities, it might be the homeless; in aboriginal communities, it's virtually everyone; in the case of some people who do not drive—the obvious piece is a driver's licence, with both a picture and an address on it, but it's problematic if they don't drive. I just want to make sure because Jean-Pierre Kingsley, when discussing the same thing in Canada, said it would literally disenfranchise 1.2 million people, asking for what we're asking for here.

Hon. Mrs. Bountrogianni: Mr. Prue, I guess on this point, we'd have to agree to disagree. Voting is very important. Having your identification to say who you are is very important. There are, even now, measures there so that if it's absolutely impossible to have your ID—there are processes there for those people, but they do have to sign a statutory declaration so that we can be certain that

fraud will not occur or that if fraud does occur, there is something on paper that the public can address later.

I have to also say that the Chief Election Officer's communication powers are expanded with this piece of legislation. He's very limited right now, with respect to what he can communicate to the public. I'm sure that's a good question to ask the gentleman when he's here: some ideas he may have on communicating this new directive as well. One of my own colleagues actually suggested having it right on the voter card that you have to bring ID. A lot of people don't have Internet in the communities that you are concerned about. There may be other initiatives for people to ensure that they have ID.

Your point is a good point. Obviously, those aren't the people we're concerned about. We're concerned that people aren't who they say they are, or aren't who they even—

Mr. Prue: I share that concern.

Hon. Mrs. Bountrogianni: As I said, that part doesn't change. Even now, if you're not on the list and you have to show ID and you don't have it, there's a statutory declaration.

Mr. Prue: My last question, if you will permit me, has to do with the blackouts. I don't understand the rationale for the blackouts. I understand what you're doing, but the blackout in that first period was, I guess, to let parties get ready, get the campaign up and going. Do you not see that the extension, so that you can literally advertise throughout the pre-election period, from the day it's called right through to the day before, will pretty much give advantage to parties that have a lot of money versus those that don't? That's one of the examples that has been given in the past for reducing the period, to level the playing field a little bit more in the very expensive area of television, radio and newspaper advertisements. What is the rationale for opening it up? Is it to not have a level playing field, or is there some other rationale?

Hon. Mrs. Bountrogianni: Absolutely, the reason for this is to have a level playing field. That's the reason for having fixed election dates. In the past, there were no fixed election dates, so that, in this case, it would be the McGuinty government that would know—actually, only one person would know—when the election would be, and they could plan around that. Mr. McGuinty has the integrity to take that away from his sitting government and from future governments because he believes it's unfair. The blackout period just doesn't make sense now. We're talking about 10 days, and you're quite right, people are advertising even now. Actually, our party isn't, but there is a party that is advertising even now, and they can right up until two days before the election. We're talking about 10 days here; it just did not make sense. Other jurisdictions that have fixed election dates have gotten rid of them, and we're doing the same.

Interruption.

The Chair: The shot was from the grassy knoll, so you're all right.

Mr. Prue: All right, okay.

The Chair: Thank you. Any other quick comments over here?

Ms. Mossop: Thank you. I think we'll pass on it, in consideration of the time, and thank the minister for everything.

Hon. Mrs. Bountrogianni: Thank you.

The Chair: Thank you very much, Minister.

Hon. Mrs. Bountrogianni: Thank you very much and thanks to my staff—my ministry staff and my political staff. It's been quite the journey.

The Chair: Thank you, staff people, as well.

0930

OFFICE OF THE CHIEF ELECTION OFFICER

The Chair: We'll call on Mr. John Hollins, Chief Election Officer. Welcome, sir. I think you probably know the routine here: You've got some time, and then we'll ask a few questions.

Mr. John Hollins: I have been here before, yes.

The Chair: Okay.

Mr. Hollins: Mr. Chair, members, thank you very much for inviting me here today. Anything to do with elections is something I live 24/7. We see this as a great opportunity moving forward, certainly for not only the electors of Ontario but also for our staff. Like any professionals, when there's change, it's an opportunity.

The formal part of my presentation will be short, and then I'll entertain questions.

I'm pleased to respond to your invitation to appear before you with comments on the proposed new section 114.1 and the bill as a whole. As I understand it, this new section will give me formal authority to provide ongoing public education and information programs about the electoral process, similar to the authorities afforded the Chief Electoral Officer of Canada and the Chief Electoral Officer of Quebec. This is also where I will be directed to educate electors and prepare them for the referendum in October.

Currently, we conduct our education and outreach programs leading into an election and fund them from our election event budget, to ramp up and ramp down for the election as one event. Why does this matter?

Basically, before an event—and this is actually what is happening now—we are going into meetings with stakeholder groups saying: "These are the products and services we can offer. We need to understand your organizations a little bit better in the short term. What communication channels do you have so that we can work with you to reach your membership?" Then immediately after the event, we host debriefings with all of these stakeholders. We get the feedback, and we compile a list of the gaps. We then have had to sit in hiatus until the next event comes. Feedback from these groups has always been, "We'd feel better if we had a permanent presence with you, if we had an ongoing relationship so that it wouldn't be just a matter of, 'It's your electoral event,' it's our community." So we've

never been able to translate to them the sense of community and our complete understanding. In other words, we're very reactive to the direction that they give us so that we can provide an electoral event—being elections. Until now, there has been no authority to sustain these relationships.

Likewise, looking at the electorate as a whole and Ontarians in general, we contact them in the month before the event to get them ready to register and vote. We have one month to educate them on the electoral process, their right to vote and how to be a candidate. We also try to engage them within this very short period of time through some key messaging: When you don't vote, you let others speak for you.

Section 114.1 is important. I believe that by making election education a part of the entire cycle of the process, we are helping to make elections part of everyday citizenship, with the potential to engage a broader elector base with the message that voting matters—every day. Section 114.1 gives us the authority to sponsor, through ongoing education, this level of engagement. Additional directives on education packages for the election and referendum programs reinforce this authority.

The new section 114.2 requires the Chief Electoral Officer to provide information packages for new electors and opens the door for us to distribute to students through their school boards. We welcome this. Our biggest criticism has been the lack of participation in electoral events in the 18 to 24 demographic, as is the major criticism of the list—the 18 to 24 demographic. That's our weakest spot. It is critical that we have the authority to prepare new electors to register and vote when they are eligible and to understand this process, and not just before an event.

What else? The biggest item for me is the ID requirement—the amendments made throughout the act to enhance identification requirements at various stages of the electoral process. Certainly, the electorate is looking for assurance that only qualified electors vote and that they only vote once. This can only help the integrity of the electoral process, and that's a win. I know I asked for this, but I admit I am going to proceed with caution if this is passed, because we have to make sure that the need to produce proof of identity, as well as proof of residence, and to do so at the poll, does not make it difficult or disenfranchise eligible electors in the province of Ontario. This includes electors who, because of their situations, such as disability or lack of a permanent residence, do not have or cannot provide the ID needed to be able to receive a ballot.

For section 4.2 to be responsive as well as effective, I will need to conduct a thorough consultation with stakeholders representing Ontario's diverse communities to ensure inclusiveness in my determination of the documents or class of documents that will be accepted as proof of identity and residence.

I'd like to just touch on a few more highlights of this bill. The authority proposed under section 4.1 to test voting methods and equipment at by-elections does not

come lightly. As we continue to introduce pilot projects into by-elections to test new electoral processes, this will enable us to introduce emerging technologies and alternative voting methods, which will hopefully lead us into cost-saving partnerships with municipalities. Further, this will position us to provide first-hand information to the Legislature on these emerging technologies and alternative voting methods while providing much-needed experience for our staff.

Our advisory committee of political parties will be pleased to see their value codified in a new section 4.3. This has emerged as an essential means to educate and brainstorm with parties between events with political stakeholders of this process. The consultation is and will continue to be a non-partisan forum in which all registered parties can contribute to the strength of the electoral process.

Section 13's amendment to clarify the criteria around selection of polling locations does not cause any challenge that did not always exist. By this, I mean the availability of locations that actually meet accessibility standards. Returning officers will continue to secure accessible sites wherever possible under the full set of rules guiding the selection of the sites.

Our technology platform can support the proposed section 17.1.1, which requires me to establish and maintain an electronic system to allow electors to verify and confirm information about themselves in the permanent register of electors.

Section 17.14 gives us authority to deliver on our pre-existing mandate to maintain and update the permanent register, allowing us additional techniques for the updating of the permanent register as well as the ability to conduct targeted registration programs in the years in which regular general elections are to be held.

Looking at section 18.3, I would like to tie this back to my earlier comments about ID. The requirement to present identification means more time for each elector in front of a deputy returning officer. We are already taking the necessary steps operationally to ensure that traffic flows through the polls and electors continue to receive excellent service.

I can tell you that section 34, which would add the name of the registered party on the ballot, will be well received by electors. We receive constant questions from them as to why it is not currently on the ballot.

Extending the polls another hour, as proposed under section 40, is a great first step towards my personal vision of allowing Ontarians to vote anywhere, any time. Anything that increases opportunity and ease for the elector is a good thing, and I can tell you that with peak hours starting at 5:30 p.m. on election day, the longer hours will help prevent lineups in the evening. Likewise, with section 44, we are looking at 13 advance polls for a scheduled general election. Simply put, this means more options for our electors.

Accountability is an important factor in ensuring the integrity of the electoral process, so the proposed requirement of the Chief Election Officer, under section

67.1, to survey electors after each general election and to include the results in the annual report that is to be made under section 114.3 is essential.

You'll notice I have not spent time discussing the proposed legislation around the referendum. Here, my position is very basic. The Office of the Chief Election Officer must retain its neutrality, its independence and its non-partisanship. The legislation—as it stands, with the directive to educate electors on the process aspects—does not appear to compromise my office. It is important that any ensuing action maintains this integrity.

Before concluding, I'd like to look at a few of the amendments proposed for the Election Finances Act.

The elimination of the blackout period in section 37, at the start of the writ period of a scheduled election, is a sound move. Campaigns now know the date in advance for a scheduled election and can plan towards it. We'll just need to make sure stakeholders understand this waiving of the blackout at the start of the period does not extend to unscheduled elections.

0940

We welcome the proposed amendment under section 37.1 that will regulate political advertising by third parties during election periods, imposing registration and reporting requirements.

I'm not sure "welcome" is the word I will hear from my election finances division when they have to action this legislation—it adds another reporting level—but we all agree this is essential and must be implemented to ensure the fairness of the process.

In conclusion, if I use the three pillars of a fair election—accessibility, integrity and participation—I believe this bill is a step in the right direction and I hope a foreshadowing of more change in the future towards modernizing Ontario's electoral process. Thank you.

The Chair: Thank you, sir. Why don't we say five minutes for each party? We'll start with the government.

Mrs. Linda Jeffrey (Brampton Centre): It's nice to put a face to a name. I've spoken about you in the Legislature, so it's nice to see you here speaking about the legislation.

I wanted to ask you about something you spoke about earlier on in your presentation, which was the weakness for the youth vote, the 18 to 24 part of our voting public that's going to be voting in the next election. Because there seemed to be so much interest in the student assembly process and the schools have participated in the citizens' assembly process, I wondered if you'd had any ideas on how you are going to engage the youth vote differently from past elections, if you would be using some different mediums, or if you had any thoughts about how you were going to crack that barrier.

Mr. Hollins: That's a very good question, something we spent a lot of time on. There's actually a couple of things we're looking at right now. We have a very strong partnership with Kids Vote Canada. I don't know if you're aware of that. We actually created them back in 2003 here in Ontario, and through this election we're partnered very closely with them. That's good and that's

effective. We believe that's effective more in the long term, however.

We looked back to the last federal election and we said to ourselves, "This is the first time Kids Vote should have some kind of a return on investment," because Kids Vote was out the previous federal election working in high schools and public schools. Some of those students had now become voting age. If you look at the federal statistics, they went up 5%, but they went up something like 40% in that particular demographic. So we were thinking, and the conclusions we've drawn are, that the Kids Vote system is now rooted and we're starting to reap some of those benefits. That relationship is something that we believe has good value in the long term, so we're strong in that particular area.

I also mentioned in conjunction that that demographic was a challenge. This actually goes back to something that has been said repeatedly—that the stronger the list, probably the better the turnout. If you compare the two in that age group, definitely that should be our target.

We've done some work with Elections Canada about how to get this group, how to really focus on them. We meet a lot with electoral jurisdictions around Canada and discuss this as probably our highest-ranking concern. Elections Canada derives a lot of names of 18-year-olds to 24-year-olds and generally waits until they get what they call a complete set of qualifiers before they'll add them to the list. Going forward to this election with this target registration opportunity, we will now have those names in advance so that we can create them as targets. So we can now go outbound and try to find these people, and with some of the new techniques, outbound calling and things like this, we believe this will be a much better opportunity for us to strengthen that part of our voters' list. Once we have them in that circle, that will include them in things like the mailing out of your "vote at" card, where you go to vote, which we believe is also good.

We do other things like liaison officers on campuses, and we're working with student groups. This time, we're actually working with them right now on many issues, not just "engage and participate" but also ideas—a big issue right now on the campuses that we're discussing with them under the proposed legislation. I hope that answers your question.

Mrs. Jeffrey: That's great. Thank you. Do I have more time?

The Chair: You have another minute.

Mrs. Jeffrey: A quick question: What do you think the impact will be with the referendum, along with the vote? You're anticipating a higher turnout, or will there be more interest?

Mr. Hollins: I always anticipate 100% turnout. It's just my nature, and it's probably why I'm in this business.

Do I think there will be an increase over the last election? I sure hope so, and I'm doing everything in my power to make sure there is. Will the referendum bring that? I hope it does. I don't know, when I look at other jurisdictions, that it has.

The Chair: Mr. Miller.

Mr. Miller: We're going to have to switch to the Australian system—the mandatory vote—to get close to your 100%.

Mr. Hollins: That's what I say when I meet up with the Australians, that they haven't met my goals yet.

Mr. Miller: No, and I don't know what their percentage is. They don't get 100% either, even with the mandatory vote.

Certainly, the education component of this is very important, with the goal of increasing voter participation. First of all, do you have the money to do that part of your responsibility if this bill passes? And are you going to be in public schools and high schools as well?

Mr. Hollins: Good questions, because these are the very things I'm thinking now, and that we're working on, since the bill was proposed. As far as the schools, yes, with Kids Vote we will be in the schools. We will have a very big presence in the schools. We had a good one, I thought, in 2003 and I think it will be even better this time. I've seen some of the plans. The partnership that we use will now allow me to blend my own communications. I say "my own communications" in the sense of we communicate the election, and we do it on a level of what we call engage and inform. I'll tell you what to do, but engage you and try to get you interested and try to get you out to the polls. We want you to participate.

Something I always found interesting, and I'll share with you, is that when we get pollsters, and we use them all the time to measure our success—we're doing well, we're doing poorly and work it out from there—they always say the one unique thing is this: When they poll, and they do a telephone poll following an election—in Ontario last time, a 56% turnout—and they say this is accurate within one or two points, they phone all the people and they say that our turnout on election day was 92%. Apparently elections are the deepest rooted guilt in people. They just can't come to face the fact that they didn't turn out and vote. So whomever in their mind they're beholden to—if it's their parents, their grandparents or whoever—that guilt, I guess, just comes up at that point when they're actually confronted.

So in the education piece, for us, we try to work that out on the inform and engage to get them to the polls. Now, looking at the actual referendum piece, we've had to decide where is the high ground—it's certainly not taking a yes or no position, of course—and where is the value, again. We see it in a couple of areas. One, work with the Kids Vote, get it into the schools. We can do that with them, and there's an advantage. We can blend it with our own advertising. Our general advertising runs about \$6 million an event, about 75 cents per elector. So we can blend in there and get actually a huge advantage. Normally, our byline would be "Election day, October 10," and now it will be "Provincial Election and Referendum Day." Just little things. We mail out the NRC card, there will be referendum things in there. In our householders, there will be referendum things. So there will be a piggyback.

Mr. Miller: As for the election, in terms of increasing participation, I would assume it's something—you're either going to try to hit every child once or it's going to be an ongoing annual education campaign. I would assume that's what you would be planning.

Mr. Hollins: Yes, we would like to use the children as—informing them on how to make decisions and make them feel it's important to participate and hopefully take that home to the dinner table, generate conversation and bring the whole family back to the poll, if possible.

Mr. Miller: I would think that makes sense. I grew up with a father who was an MPP, so it just happened, and probably for most of the people around this table it did, so it seems: "Just don't miss voting." But obviously there are a lot of people who don't participate, and that's something that's important.

In this bill, you like most of the changes, I gather. Are there things missing that you would like to see that aren't in it?

Mr. Hollins: We don't have all day to go over all the things that I think are missing.

Mr. Miller: Okay, give me the top two or three things that are missing.

Mr. Hollins: I think the most important thing—there are two things, actually: One, I honestly believe that the legislation that I operate under was written in 1969 for a very different Ontario than I face today. If I were recommending anything, it would be to create a committee to review the complete legislation and rewrite it for this century.

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The second thing would be access to databases. I believe there's a target in the 18 to 24-year-old area. I think that those databases are available through school boards, and I don't have access to those. I think that would significantly help me with my greatest challenge.

Mr. Prue: I have a couple of questions.

You will be responsible for the referendum. The government has yet to set an amount of expenditure for informing the public of the referendum. It has been proposed by some groups that \$13 million, or about \$1 a person, is necessary to do the job. What do you think you're going to need to do the job?

Mr. Hollins: Honestly, at this point, I don't know. I know that I have staff huddled in a room trying to sort these particular issues out. At the same time, we're not looking so much at dollars at this point; we're looking at value and return on investment. I had mentioned, how much can we blend into our own advertising and what's the value there? How much earned media can we, as a spin-off, get? Then from there, how do we supplement that package with all the other things we think are the right things to do at the right times? Does that mean I have a dollar figure? At this point, I definitely do not. I know they'll propose a budget, and I've asked them to do that once we actually have legislation, as opposed to a bill, and then I can go forward with that and secure the resources that will be required. Of course, I know that when you do a request for proposals and things,

sometimes the numbers will move because the suppliers—I'm only guesstimating at this stage who they're going to be.

Mr. Prue: Much has been made of trying new voting technologies. I am one who always wants to see, at the end, a hard copy of the vote. Some people are talking about computer voting. I know how easily some guy ripped me off in computer and identity fraud, and I am extremely suspicious. Are you looking at computer voting at all? Maybe I'm wrong, but I think it's easily rigged.

Mr. Hollins: We're actually looking at every system that's operating on this planet today, and I don't mean that facetiously. I was in Scotland two weeks ago. My deputy was the lead person in France a month ago. We're very conscious of what's going on across the planet. If we were legislators, as opposed to officers of the assembly, we would have concerns in many areas. We actually focus on the ability to facilitate anything that the Legislature might propose for us. There are pros and cons to absolutely every system I've seen.

I believe where you're going is, you're entrusting this guy with something on technologies but where's his head at?—and I get that.

I share your position on hard copy. I've sat through too many recounts to not want that piece of paper.

Mr. Prue: Exactly.

Also in terms of hard copy, I just witnessed what happened in the city of Kawartha Lakes, where 40% of the mail-in ballots were deemed to be ineligible. Is there something that can be done to facilitate that? You don't want 40% of people who vote in good faith to have their votes not count.

Mr. Hollins: What would I have done?

Mr. Prue: Yes, what would you have done?

Mr. Hollins: I would probably have put in place a body that regulates the systems that are used by municipalities so that you have consistent rules followed whenever somebody implements a system, and that helps protect them not only from the vendors, but it also positions them for a partnership to go forward. Each of the 400 and some municipalities out there now are kind of hung out to dry to be not only creative and come up with good systems and respond to the electorate—with limited direction.

Mr. Prue: If I have time, I just have two more small questions.

The Chair: Go ahead.

Mr. Prue: The one-hour extension: Many people have told me that they believe that the hour should be in the morning. I'm thinking about people who live in Hamilton or Barrie who commute to Toronto. Even though they might get three hours to vote at the end of the day, most of that three hours will be spent in gridlock trying to get back to vote. Would it not make equal sense or maybe even more sense to allow it in the morning before they get the kids off to school or they begin their long commutes?

Mr. Hollins: I'll give you my statistics. My opinion will be somewhat anecdotal based on my own experiences. The complaints we got last election from people who didn't vote—and this was through our polling—were that they came home, "We have kids. We have dinners. We have responsibilities. You're not the highest thing on my priority list. I know you wish you were, and I'd like you to be, but I just run out of time and I can't get to your poll." That was our biggest complaint from people. The second complaint that we got was the fact that "I got to the poll and there was no party name beside the names and that made it very difficult for me to make a choice. In some cases, I just handed my ballot in and didn't mark it." That's the feedback that we've received from people.

The anecdotal would be, in travelling the world and watching hours in societies that are similar to ours, where people get up and do a 9 to 5 job—I would suggest that if the answer was to go earlier, don't open at 9 but open at 8 isn't the answer. Open at 5 or 6 in the morning; that's the answer. In the jurisdictions where I've seen they've gone earlier, where they've moved to earlier starts, they've gone to the 5 or 6 o'clock model. I think the US uses pretty much a 6 a.m. model, and they get voters 6 to 7:30, and then they get them 5:30 to whenever they close. That seems to be the model. However, there is a solution to this, and that's don't pick a day that everybody's working. Like some countries do, make it a national holiday or a provincial holiday. Food for thought.

The Chair: A quick follow-up, Norm?

Mr. Miller: Yes, I just want to echo what Mr. Prue said to do with municipalities. I know I had one of the municipalities in my riding of Parry Sound—Muskoka wish that the province gave direction for mail-in ballots, because they had huge percentages of ballots that were invalid. The clerk who was involved with running the election said they wished the province would set some rules and give direction on how to do those.

Mr. Hollins: We don't disagree. We're not empowered to do that. We're kind of a phone call away, but that phone call isn't always made.

The Chair: It's interesting, Mr. Hollins, that you talk about just recently being in Scotland. Mr. Prue's first question was about computers and balloting. I guess they're still trying to sort that out over there, aren't they?

Mr. Hollins: I'll have to be honest with you. The computers in Scotland worked absolutely excellently. I was very impressed.

The Chair: Is that right?

Mr. Hollins: Yes. The ballot design and the directions that they gave the voter were extremely confusing. I'll give you an idea. Have you all voted on a composite ballot before? That's two ballots on the same sheet of paper. They gave two ballots on the same sheet of paper and then they said, "You have two votes." So everybody marked two votes in column one and nothing in column two—over-vote, under-vote, 100,000 rejected ballots. So it was ballot design coupled with bad direction. It was administration.

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Monday 28 May 2007

Journal des débats (Hansard)

Lundi 28 mai 2007

Standing committee on the Legislative Assembly

Election Statute Law
Amendment Act, 2007

Comité permanent de l'Assemblée législative

Loi de 2007 modifiant des lois
en ce qui concerne les élections

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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Monday 28 May 2007

Lundi 28 mai 2007

*The committee met at 1601 in room 228.*ELECTION STATUTE LAW
AMENDMENT ACT, 2007LOI DE 2007 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS

Consideration of Bill 218, An Act to amend the Election Act and the Election Finances Act and make related amendments to other Acts / Projet de loi 218, Loi modifiant la Loi électorale et la Loi sur le financement des élections et apportant des modifications connexes à d'autres lois.

The Chair (Mr. Ted McMeekin): We'll call the committee to order. Welcome, everybody. I'm sure you all had a great constituency week. We're here today to do clause-by-clause of Bill 218, An Act to amend the Election Act and the Election Finances Act and make related amendments to other Acts. Are there any comments, questions or amendments to any section of the bill and, if so, to which section?

Mr. Norman W. Sterling (Lanark–Carleton): Mr. Chair, I gave to the minister and to the other parties a copy of three amendments that I had to section 3 of the bill—and I believe they're in front of the members of the committee now—

The Chair: Yes, they are.

Mr. Sterling: —to section 32 of the bill and an alternative to section 32; sort of two choices to section 32 of the bill.

The Chair: Very good. I, for one, appreciated getting those in advance. Thank you, Mr. Sterling.

Mr. Sterling: I'd also like to thank legislative counsel for the help with that.

The Chair: They always are exceptionally helpful.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Is there any discussion with respect to section 3? By gosh, there is.

Mr. Sterling: I have a motion.

The Chair: Go ahead, Mr. Sterling.

Mr. Sterling: I move that subsection 4.1(1) of the Election Act, as set out in section 3 of the bill, be struck out and the following substituted:

“Testing voting and vote-counting equipment, alternative voting methods”.

That is not part of the bill but that is the title.

“(1) At a by-election the Chief Electoral Officer may, subject to the approval of a majority of the members of the advisory committee established under section 4.3, direct the use of voting equipment, vote-counting equipment or alternative voting methods that are different from what this act requires.”

If I might explain the amendment, Mr. Chair.

The Chair: Please.

Mr. Sterling: Under the present section 4.1, the Chief Electoral Officer is given unfettered—I shouldn't say “unfettered.” He's given the opportunity to introduce alternative voting methods during a by-election. Under the bill as it's presented—and it is an improvement from the existing electoral process—there is an advisory committee that's formally set up in the bill under section 4.3. That includes a representative from each of the parties that have representation in the Legislature. So there would be a representative from the Progressive Conservative Party, the Liberal Party and the New Democratic Party.

The requirement presently under the bill is that the Chief Electoral Officer consult with the advisory committee; he doesn't need to get approval from the advisory committee. So if he went to the advisory committee and said—and I'm just using this as an illustrative example—“I want to have online voting in this by-election,” and two of the three parties said, “No, we don't think we want to support that. We believe that will lead to more abuse or some abuse, etc.,” the Chief Electoral Officer still has the right to go ahead with that experiment. Whether or not the results of the experiment were successful, the by-election results would remain intact; in other words, whether it had in fact been a success or not.

So all I want in this section in the amendment is to require that a majority of the advisory committee approve of the experiment before the Chief Electoral Officer is given the okay to go ahead with whatever experiment he wants—for two reasons. Number one is that while the Chief Electoral Officer is close to the elections, he's not a politician. He's not a representative of the political parties, and he's chosen for those specific reasons. I'm not sure that he would view the world the same way as an elected politician or the political parties would. Number two is that a by-election's results should be valid and shouldn't be done on an airy-fairy experiment that the elections officer, who's an independent officer, might engage in.

I have all the confidence that Mr. Hollins, our present Chief Electoral Officer, wouldn't do that, but we are making legislation here and I believe there should be some kind of sanction or control over this particular latitude that he's being offered in this legislation.

Mrs. Linda Jeffrey (Brampton Centre): This particular amendment that Mr. Sterling was speaking to, that in the past the majority of registered parties with 12 or more MPPs was required by the Chief Electoral Officer to pilot or test new technologies—it's never been used, to my knowledge. We've never stood in the way of that, testing the technology, but the wording in this particular motion says "subject to the approval of a majority of the members of the advisory committee." We have faith and respect for the Chief Electoral Officer, and based on his testimony before this committee recently that we heard, I have even more faith that he takes his role as an independent officer of the Legislature very seriously. If we adopted this motion, we'd continue to require the Chief Electoral Officer to obtain approval and consent from political parties. Bill 218, as it's drafted, was meant to depoliticize testing initiatives and to try new things. We believe the advisory committee and its role should serve in a consultative fashion rather than supervisory body which oversees, approves or denies requests put forward by the Chief Electoral Officer. We believe that the Chief Electoral Officer has the explicit authority and discretion to pilot new technologies in by-elections if this proposed legislation passes, and we trust that he's going to act in a reasonable manner.

As well, the Chief Electoral Officer will be providing the advisory committee with advance notice of his intent to test new technologies. At the end of the day, he reports to the Speaker with any recommendations that emerge from that testing, which of course would be available to the advisory committee for their consideration. At the end of the day, we believe that's going to enhance the integrity and security of the electoral system and we can't support this motion.

The Chair: Shall the amendment carry?

Mr. Sterling: Can I just respond? From time to time, I travel south and I read what other jurisdictions are doing or not doing, and I do note that the state of Florida where they had that terrible shemuzzle with regard to the first Bush election with regard to machines, paper and paper trails and that kind of thing, has just made a decision to return to a paper trail with regard to their balloting process. So in fact if there is a question about what happened, they can do back and they can ascertain what happened at the ballot box.

My concern is this: If I was the Chief Electoral Officer, and I put myself in his place, I'd want to be the most progressive election officer in the country. I'd want to be looking at all kinds of new things. I'd be interested in trying different things. But I also believe that some of the old methods are good methods. I guess from my small-c conservative approach to this, I've never quite understood why we need to eliminate paper ballots. I have a great fear of—and I'm an engineer, as you know—

machines fouling up during an election process, and I have an even greater fear of not having a proper paper trail to ascertain whether those machines did their job. I don't think it's fair to people who are running in a by-election to go through a process when in fact that paper trail may or may not be there. So that's why I put it forward.

I understand that the government, as usual, will not be looking to try to accommodate the opposition.

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The Chair: Well, let's see. I don't know what's going to happen. We'll have to test that out. All those in favour of the amendment? Those opposed, if any? It's defeated.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Interjection.

The Chair: Mr. Sterling has said that we should vote on sections 7 through 29. All in favour? Carried.

Section 30: There is an amendment. It's a government motion.

Mrs. Jeffrey: I move that clause 2(1)(n) of the Election Finances Act, as set out in subsection 30(4) of the bill, be amended by striking out "37.14(1)" and substituting "37.12(1)".

This is a technical amendment. It corrects an incorrect cross-reference to the section number meant to refer to the election advertising report completed by third parties.

The Chair: Any further discussion? All in favour of the amendment? Carried.

Shall section 30, as amended, carry? Carried.

Is there any discussion with respect to section 31? I note with interest another amendment from the government side.

Mrs. Jeffrey: I move that section 31 of the bill be amended by adding the following subsections:

"(2) Subsection 37(2) of the act is amended,

"(a) by striking out 'constituency association or candidate registered under this act' and substituting 'constituency association, third party or candidate registered under this act'; and

"(b) by striking out 'association's or candidate's consent' and substituting 'association's, third party's or candidate's consent'.

"(3) Subsection 37(6) of the act is amended,

"(a) by striking out 'constituency association or candidate registered under this act' and substituting 'constituency association, third party or candidate registered under this act'; and

"(b) by striking out 'association's or candidate's consent' and substituting 'association's, third party's or candidate's consent'."

This is not a major change. It's fine-tuning the roles and the responsibilities of the third parties. It's consistent with the rest of the act, so it's consistent with the desire to regulate the activities of the third parties in the same manner as the referendum campaign organization under the Electoral System Referendum Act, 2007. There are

two requirements that are added: 37(2) offers greater certainty that third parties and their supporters are not to advertise during the blackout periods; and 37(6) would ensure that advertisers don't charge third parties more for advertising space and time and aren't gouging them during an election. Similar protections are already afforded to parties and candidates in constituency associations. This protection would be afforded to referendum campaign organizers.

The Chair: Further discussion? All those in favour of the amendment? Carried.

Shall section 31, as amended, carry? Carried.

That brings us to section 32. Any discussion or amendments? It looks like we have three. First, the opposition.

Mr. Sterling: This is an either-or kind of situation, really offering two alternatives with regard to limiting third party election advertising expenses. Might I say the reason that I'm bring these particular amendments is to couple these amendments with former Bill 62, which is now part of schedule 11 of the budget bill. That particular piece of legislation dealt with party registration. In other words, instead of having to field candidates in 50, I believe it was, constituencies, or half of the constituencies in Ontario in order to be a registered party in Ontario and have 10,000 members, those two requirements were changed dramatically by Bill 62, or schedule 11 of the budget bill, to make a party, as one of my colleagues said, a date rather than a party. In other words, two people can run two candidates in two constituencies and you can form a registered party. When there's not an election on, to become a registered party you need to have 1,000 members rather than 10,000.

The reason these two are coupled is because of the legislation which drove Bill 62 and is before the courts at the present time, and was the excuse that the government put forward to bring forward Bill 62. The Supreme Court of Canada said to our federal counterparts that it was unfair to a group who wanted to participate in an election to have such high qualifications to become a registered party at the federal level. Their level was 50 constituencies at the federal level. You had to have candidates in 50 ridings across Canada in order to register as a party. The reason the Supreme Court of Canada came to that decision—they said you had to go way down and they went to, I believe, two constituencies as well for the federal parties—the reason that they went down to that level, was that they have a limit similar to the limit proposed in these two amendments to third party advertising: If you were a third party and you had a specific interest, your ability to be involved in the election, to have free speech in the election, was limited by the spending amount that the federal legislation has. So they said to the federal Parliament, "Look, you can't have both things here. You can't have the spending limit and the high threshold for becoming a political party and therefore entering into the debate of the election." I think it was an animal rights group which wanted to support one of the political parties during the election, but they

were limited by the fact that they could only spend—I believe the federal limit was \$150,000 during a general federal election.

Here we've sort of gone in reverse. What we've said is that we're going to lower the limit in terms of being qualified as a political party, so if you want to express your opinion with regard to an issue, you can do it pretty easily as a political party by having two candidates running in two constituencies, and therefore you can get the spending limits associated with that and the political party spending limits, which are much higher than \$150,000, and you can go on whatever campaign you want.

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What we have done is, we have said, "You can do it that way or you can go the old way of just spending as much as you want with regard to an election if you're a third party. You can spend as much as a political party might spend—\$4 million or \$5 million—on advertising across the province." Incidentally, if third parties engage in that kind of advertising, they make it more difficult for the political parties to compete in terms of raising the dough to spend on advertising during an election.

So what I thought was, if you're going to try to mirror the federal government with regard to qualification to become a party and have two candidates, then you should also have some limitation on third party spending. The other point here is that there is a requirement in this legislation for those third parties to report their contributions, but that report only comes within six months after the election. So during the election a party can pose—Friends of the Family I think was the group that opposed my political party in the last election, when in fact it was a group of unions who posed under that name. They didn't put their names as unions under the ads, but they put "Coalition Families" or whatever it was.

Before the people get to the ballot box, they don't really understand who's contributing to the funding of this advertising, because this legislation doesn't require them to report who's contributing prior to the election and therefore reveal it to the public, nor is there any limitation on what they can do in terms of the amount of money that they spend on expenditures.

That number of factors I have tried to gather into these two resolutions. I have put forward one motion which limits the amount to a defined figure, and the other one mirrors what we can spend in a electoral district. In other words, any one of us who might run for election the next time can spend, depending upon various different formulations, \$90,000 to \$100,000 under that way. So I put forward two amendments.

Rather than read the two amendments, I would just like to hear if there's going to be some support for them, because there's not much sense in going through two alternatives if there's no support.

The Chair: You know what, Mr. Sterling? In my enthusiasm to hear your arguments, I forgot to ask you to actually read it, which I'm told by the clerk you need to do.

Mr. Sterling: Okay. I move that section 32 of the bill be amended by adding the following as section 37.5.1 of the Election Finances Act:

“Limitation of third party election advertising expenses

“General election

“37.5.1(1) In a general election, the third party election advertising expenses of a third party shall not exceed,

“(a) a total amount of \$75,000;

“(b) \$3,000 in a given electoral district.

“By-election

“(2) In a by-election, the third party election advertising expenses of a third party shall not exceed \$3,000 in the electoral district.

“Conflict

“(3) Subsections (1) and (2) apply despite any other provision of this act.”

That is my first amendment.

The Chair: I suspect, after having heard your arguments and having read the amendment, we’re about to find out whether there’s agreement or not. Would you like to speak, parliamentary assistant?

Mrs. Jeffrey: I would, but I’m going to have a lot of the same arguments for both motions, Mr. Chair, so I hope you’ll indulge me. I’m going to try not to be too repetitive.

The Chair: We indulged Mr. Sterling, so I think it would be fair to indulge you as well.

Mrs. Jeffrey: Okay. Well, at the end of the day, we want to increase transparency—that’s important to us—about how the election process works. This particular motion is really contrary to what we’ve been saying from the very beginning, which was that we didn’t want to impose any spending limits on third party election advertising. Given this direction, there’s no rationale to create a spending limit, because if you introduce them, then the legislation would have to be further amended to include rules to prevent circumvention of that limit.

The government also directed that the advertising of the referendum campaign organizers, governed by Ontario regulation 211/07, made under the Electoral System Referendum Act, 2007, should similarly not be subject to a spending limit. So if this motion were adopted, there wouldn’t be symmetry between those two pieces of legislation which put in the spending controls between the referendum and third party election advertising. That could cause some confusion.

Unlike the federal rules, these provisions are not indexed. Most significantly, if adopted, such limits could pose a high risk of being found unconstitutional. They’re more restrictive than the limits approved by the Supreme Court of Canada in the Harper case in 2003, I understand. This motion and the subsequent motion are both contrary to what we’ve said our goals with regard to transparency and not putting in spending limits are, so we won’t be supporting this motion.

Mr. Paul Ferreira (York South–Weston): I can’t support Mr. Sterling’s first motion. I think the figures he

has suggested are artificially low. I can’t support it on that basis. I am in support of his second motion. I do think it’s important to place limits on advertising by third parties. To simply allow certain parties to spend as much as they can would unduly influence elections. His second motion is agreeable to me, though the first one I’ll have to vote against.

The Chair: Okay. We’ll call the question on—

Mr. Sterling: Mr. Chair, I withdraw the first motion.

The Chair: Okay. Mr. Sterling, we’ll ask you to read the second motion.

Mr. Sterling: I move that section 32 of the bill be amended by adding the following as section 37.5.1 of the Election Finances Act:

“Limitation of third party election advertising expenses

“37.5.1(1) Despite any other provision of this act, the third party election advertising expenses of a third party shall not exceed,

“(a) in a general election, the prescribed limit for a general election or the prescribed limit for an electoral district;

“(b) in a by-election, the prescribed limit for an electoral district.

“Regulations

“(2) The Lieutenant Governor in Council may, by regulation, prescribe limits for the purposes of subsection (1)”.

All of my other arguments stand with regard to some limitation on third party advertising. I do not believe that either the corporate world, the labour union movement or anybody else should be able to control a major part of an election. I believe it should primarily be between the political parties. Therefore, if a party or a group has a significant interest, as I mentioned before, they can form a registered party fairly easily, gain all of the benefits under our Election Finances Act associated with that and put forward their point of view, so that we’re not talking about groups that are not well financed when we’re talking about this particular issue.

I believe that this does not limit debate with regard to an election; it limits spin with regard to an election, spin by people who have not, perhaps, a global perspective of the province. I don’t have any problem in limiting those particular people from monopolizing the airwaves.

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The Chair: We’ll put the question. Sorry, do you want to speak to that, parliamentary assistant?

Mrs. Jeffrey: I appreciate Mr. Sterling’s tenacity in trying to put forward another alternative. But again, I’m not sure you can find the right number. I think we’re on some pretty new territory, and I’m not sure what number would be the right number. What we’re trying to do here is not restrict people but provide some transparency and accountability for this process. After this next election, if there is something obvious that has come about, I’m sure the Chief Electoral Officer will be quick to tell us how we can lay the groundwork for some future changes that will see that we make sure electoral reform is modified

should there be something that stands out during the next election.

At the end of the day, there's a lot of accountability in the legislation, should it pass, with regard to third parties. It makes them accountable. A third party must register once it spends \$500. They must submit a report within six months after polling day. They have to include totals of all the classes of contributors, the information of all the donors who contributed more than \$100. A third party that spends more than \$5,000 must appoint an auditor and submit an auditor's report. Those are familiar practices in electoral financing now. They're not much different this time. We're just trying to provide a framework—I don't think there is a right number for this process—making sure that people have all the facts after the election has occurred with regard to who donated money.

I think we heard from the Chief Electoral Officer that he welcomed these changes and the amendments that were being put forward because he wants some regulation and some guidance as to how to impose registration and reporting requirements. He recognized it was essential to make sure that this process worked.

Although I appreciate that Mr. Sterling has tried to find a happy medium, we currently cannot support this because, as I said earlier, it can't be done through regulation the way the bill is written now, and it's not going to work with regard to the symmetry between the referendum advertising and the third party election advertising.

Mr. Ferreira: Mrs. Jeffrey refers to not being certain of this being the right number. I disagree. Caps are placed on parties and on individuals running in individual constituencies. Those are hard spending limits. I believe that if we're imposing spending limits on parties and individual candidates, then surely the same rules must apply to those who aren't parties and aren't candidates. Otherwise, it's not inconceivable that we could have a scenario where someone with very deep pockets—and we know there are some of those folks around—could spend outrageous amounts to advance their own personal agenda. What we're creating here is a Wild West when it comes to third parties, and I think that could cause some serious damage to democracy here in Ontario.

I support Mr. Sterling's motion.

The Chair: I'll put the question.

Mr. Sterling: I just want to say I cannot accept that this bill creates transparency with regard to third party advertising. The only time it's important is before the election date. If you're not reporting on a timely basis—in other words, I'd be quite willing to accept amendments by the government to say that it would have to report within 48 hours any contributions with regard to third party advertising. I have no problem placing very onerous requirements in terms of reporting on third parties who want to engage in the election process but don't want to be directly involved.

That's not the way it is now. Basically, it's a free-for-all. We'll only find out after the election who gave what

to whom in terms of who was touting what message where. I think it's very, very weak on the part of the government in terms of the election process. They could have come forward. As I said, I gave this amendment to the minister a week and a half ago. They could have come up with a compromise, and I'm disappointed they haven't.

The Chair: We're going to call the question on the amendment on page 5. All those in favour of the amendment, please indicate. Those opposed, if any? The amendment is defeated.

That leaves us with one more proposed amendment to this section, numbered 6. We go to the government side.

Mrs. Jeffrey: I move that subsection 37.10(1) of the Election Finances Act, as set out in section 32 of the bill, be struck out and the following substituted:

“Prohibition, use of certain contributions

“(1) No third party shall use a contribution for the purpose of third party election advertising unless it is made by,

“(a) an individual ordinarily resident in Ontario;

“(b) a corporation that,

“(i) carries on business in Ontario, and

“(ii) is not a registered charity within the meaning of subsection 248(1) of the Income Tax Act (Canada); or

“(c) a trade union as defined in this act.”

These amendments would ensure that the source of contributors to third parties during the period regulated would have to be based in Ontario, so that somebody from another province couldn't come in and change the results. These restrictions are similar to those for parties, candidates and constituency associations and are similar to those for the referendum campaign organizers. So it clarifies who can contribute for election advertising. It's technical in nature.

Mr. Sterling: A question to legislative counsel: I presume that a foreigner—and I'm talking maybe in another province here rather than another country, but it could be another country—who has a corporation that carries on business in Ontario could advertise as much as they want in Ontario?

Ms. Cornelia Schuh: Well—

Mr. Sterling: So as a non-resident, all they would have to do, really, is incorporate.

Ms. Schuh: To carry on business in Ontario and then advertise as a third party in Ontario?

Mr. Sterling: Yes. To carry on business doesn't require very much.

Ms. Schuh: This subsection deals with the use of contributions. I guess the point that you're driving at is that the corporation could use its own funds. Is that what you're suggesting?

Mr. Sterling: Yes.

Ms. Schuh: I think so, yes.

Mr. Sterling: So this doesn't really limit anybody to anything. So why are you doing this if there are no limitations on it other than—I guess the only limitation would be if they registered as a charity. It includes, I

guess—you could have a non-profit corporation? A non-profit corporation could collect money and advertise?

Mrs. Jeffrey: Can we get somebody from the ministry to help?

Ms. Schuh: I'm not certain about this. I wonder whether maybe—

Mrs. Jeffrey: Maybe somebody from the ministry can help.

Ms. Schuh: —Mr. Batty, the DRS counsel, could speak to that.

The Chair: Please come and introduce yourself and be as helpful as you can.

Mr. Jonathan Batty: Good afternoon. I'm Jonathan Batty. I'm the counsel with the Democratic Renewal Secretariat. These rules are going to be applied by the Chief Electoral Officer. The assertion that carrying on business in Ontario is a low threshold—I'm not sure that it is a low threshold in terms of just setting up a shell corporation—

Mr. Sterling: All you have to do is carry out one transaction and you're carrying on business.

Mr. Batty: Well, potentially. I think what's important to keep in mind with these amendments, as you've been discussing them, is that we're now in a situation where there is no regulation in this field whatsoever. So when you're saying that this is having no effect, I'm not sure that there's a harm where you've had outside corporations—for instance, a corporation based in New Brunswick—disproportionately influencing the election campaign in Ontario. What this is driving at for third parties, as we're covering a range of activities, is that there would now be reporting. In fact, you're moving to a situation where there would be greater controls now for the corporation in New Brunswick than is the case, because if you don't have this at all, there's no limit on that New Brunswick corporation from doing anything in terms of third party election advertising.

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Mr. Sterling: It has nothing to require the corporation to have directors who are—and I'm not even sure you have to be a—I guess you could be a federal corporation, incorporated federally, and be carrying on business in Ontario. But you're not really doing anything here. You're requiring reporting up to six months after. If I want to avoid this legislation and I funnel the money through somebody who's offshore, they incorporate a corporation, carry on business, spend the money—they don't report. They walk away.

Mr. Batty: But I think as Ms. Schuh has explained to you, this is about contributors to the third parties, and the contributors to third parties would have to be resident in Ontario—and third parties would have to be resident in Ontario.

Mr. Sterling: How do you know before the election if you don't report until six months after?

Mr. Batty: Well, the requirement is to—and this is mirroring the existing federal regime, where their reports—

Mr. Sterling: But they only have \$150,000 that they can spend, so you don't have to worry too much. With \$150,000, you can't buy very much advertising regardless, so you don't have to worry about the reporting regime. Here, we've got an open door. They can spend \$6 million or \$10 million. You have to worry about the reporting regime. You mirror one part of it, but you don't mirror the other. That's the problem with the legislation.

Mr. Batty: It hasn't mirrored the spending limit, but in terms of the transparency of the tracking—for instance, in the registration of the third parties, you are going to know who those third party actors are. For instance, in the example—

Mr. Sterling: But for \$150,000 it doesn't matter. You can't advertise; you can't put TV advertising on day after day. With \$6 million, you can.

The Chair: Can I respectfully suggest that this isn't a debate between—

Mr. Sterling: I'm sorry. Excuse me.

The Chair: If you have a question that you want to phrase—

Mr. Sterling: And it's not counsel's prerogative to make the policy. I'm sorry.

The Chair: Any other discussion? Thank you very much. We're going to put the question on amendment number 6. All those in favour? Opposed, if any? It's carried.

Mr. Sterling: Recorded vote.

Interjection.

The Chair: Well, I'll exercise my discretion and say yes, we'll record that vote.

Ayes

Jeffrey, Matthews, Mossop, Qaadri, Racco.

Nays

Sterling.

The Chair: The motion is carried.

Interjection.

The Chair: You're not properly substituted. Although we appreciate your verbal interventions, you have no standing other than that at the present time, I'm afraid.

Mr. Ferreira: I'll make sure the whip gets the right paperwork next time.

The Chair: Shall section 32, as amended, carry? Carried.

Mr. Sterling: I said no.

The Chair: I heard you, but all the others said yes, so I guess it's carried. I always count you two or three times, Mr. Sterling, but still you're outnumbered here. So that's carried.

Shall section 33 carry? Carried.

Shall section 34 carry? Carried.

Shall section 35 carry? It's carried.

Shall section 36 carry? That's carried.

Shall section 37 carry? That's carried.

Shall section 38 carry? That too is carried.

Shall section 39 carry?

Mr. Shafiq Qaadri (Etobicoke North): Can we make it inclusive?

The Chair: Would you like to make it inclusive right through, section 39 to section 42? Agreed? All those in favour? Shall it carry? It's carried.

Shall table 1 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 218, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

That's it. The committee is adjourned.

The committee adjourned at 1647.

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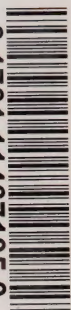
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